



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes          CNC

### Introduction

This matter dealt with an application by the tenant to cancel a Notice to End Tenancy for Cause.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was hand delivered to the landlord on March 29, 2011. The landlord confirmed receipt of the hearing documents.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issue(s) to be Decided

- Is the tenant entitled to have the One Month Notice to End Tenancy for cause cancelled?

### Background and Evidence

Both parties agree that this tenancy started on August 01, 2009. The tenant pays a subsidized monthly rent of \$375.00 which is due on the 1<sup>st</sup> of each month.

The landlords' agent testifies that the tenant was served with a One Month Notice to End Tenancy on March 28, 2011. This gave one reason to end the tenancy as follows: The tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety

or lawful right of another occupant or the landlord. The Notice has an effective date of April 30, 2011.

The landlords' agent submits that they carry out monthly inspections of the units and bedbugs were first noticed in the tenants unit on January, 12, 2011. The tenant was notified immediately but denied the presence of bedbugs. A re-inspection on February 17, 2011 revealed that the tenant had not taken any action to deal with the bedbugs. The landlords' agent testifies that they gave the tenant instructions on how to prepare his unit for pest control treatments. On three occasions an appointment was made to treat the tenants unit and he was provided with verbal and written instructions on each occasion on how to prepare his unit. However, when one of the landlords agents arrived with the pest control company to treat the unit they found the tenant had not followed these instructions and the treatment could not take place.

The landlords' agent testifies that the Pest Control Company came back on two more occasions to treat the tenants unit but on each occasion the tenant had not prepared the unit as per the instructions. The landlord states the tenant was given two warning letters, one on March 02, 2011 and one on March 14, 2011. As the tenant had repeatedly refused to prepare his unit the landlord issued the tenant with the One Month Notice to End Tenancy for cause. The landlord has provided copies of the warning letters and One Month Notice.

The landlord has also provided a copy of a letter sent from the pest control company which states "as of March 22, 2011 a third attempt was made to render treatment but again preparation requirements were not met and pest control service cannot be administrated until such requirements are met".

The landlord seeks the Notice to End Tenancy be upheld but do not seek an Order of Possession at this time as they hope the tenant will move out on the effective date of the Notice.

The tenant testifies that he is a disabled person with ill health and was first made aware of a possible bedbug infestation when the landlord posted a letter on his door. This letter was dated February 03, 2011. However, the tenant states this letter had his last name misspelt and had a different unit number.

The tenant testifies that he has seen a large adult bedbug in his unit which he disposed of and at that time saw no other evidence such as eggs, young bugs or blood trails on his bedding. The tenant states that prior to receiving this letter he does not recall the landlord carrying out an inspection of his unit to determine that he had bedbugs. If the landlord had informed him after an inspection he would have dealt with the matter and followed up with the landlord.

The tenant states on March 10, 2011 one of the landlords' agents and a pest control man came to his unit. The landlords' agent asked him if he had prepared his unit for treatment and then told him he had not prepared his unit therefore the treatment would be cancelled. The tenant states that since March 10, 2010 the landlord has not contacted him about treatments. The tenant states since he received the Notice to End Tenancy the landlord has cancelled his access card to the 6<sup>th</sup> floor where the support centre is located and he has been unable to communicate with the landlord because of this.

The tenant states that he has bagged his clothes up and removed a couch and reclining chair from his unit. The tenant states he has seen one other adult bug in his unit and disposed of that but again found no sign of an infestation. He states he has washed his floor, emptied his fridge and removed food that is not sealed. He states he has not encased his foam mattress as the landlord has not provided bags to do so and has not emptied his furniture but would be willing to do this for any treatment of bedbugs. He states he has sprayed his baseboards. The tenant also states he received another warning letter from the landlord dated March 14, 2011.

### Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. In this matter, the landlord has the burden of proof and must show (on a balance of probabilities) that grounds exist (as set out on the Notice to End Tenancy) to end the tenancy. This means that if the landlords' evidence is contradicted by the tenant, the landlord will generally need to provide additional, corroborating evidence to satisfy the burden of proof.

The tenant has stated that he did not receive any communication with the landlord after March 10, 2011 concerning the bedbugs then later in his evidence when we discussed the warning letters given to the tenant the tenant contradicted his earlier statement and said he had received

the warning letter dated March 14, 2011. The tenant has agreed he has found two adult bedbugs in his unit but argues that there is no sign of an infestation.

When even one bedbug is found in a unit a landlord must act expediently to prevent these bugs from laying eggs and exasperating the problem. I find the landlord has acted diligently in attempting to treat the tenants unit on three occasions and find the landlord warned the tenant of the problem on at least two other occasions. I further find the landlord gave the tenant the required advice on how to prepare his unit on three separate occasions.

It is my decision that the tenant has failed to prepare his unit for treatment on each of the visits by the pest control company as documented in their letter to the landlord I further find the landlord has provided sufficient evidence to show that the reason given on the One Month Notice is valid and they have met the burden of proof in this matter. Therefore the One Month Notice is upheld and the tenants' application to cancel the Notice is dismissed.

#### Conclusion

The Tenant's application is dismissed. The One Month Notice to End Tenancy for Cause dated March 28, 2011 will remain in force and effect.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: April 19, 2011.

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Residential Tenancy Branch