



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

CNC

Introduction

This Hearing was scheduled to hear the Tenant's application to cancel a Notice to End Tenancy for Cause issued June 22, 2011.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Background and Evidence

The Landlord's agents gave the following testimony:

The Landlord's agent served the Tenant with the Notice to End Tenancy by handing the document to the Tenant on June 22, 2011.

The Landlord has spent almost \$5,000.00 since March 3, 2011, trying to eradicate bed bugs from the rental unit. The rental unit has been treated for bed bugs on a regular basis since March 3, 2011. The Landlord's agents believe that the treatments have been unsuccessful because the Tenant is not properly preparing the rental unit for treatments. The Landlord's agents also believe the Tenant may be reintroducing bedbugs into the rental unit. The rental unit has been inspected by professionals for live bugs and by sniffer dogs and has treated by spraying and by heat treatments. The Landlord's agents testified that the Tenant was provided with detailed written instructions of how to prepare the rental unit for treatments, but has not complied.

The Landlord's agents testified that every time there were inspections or treatments done to the rental unit, the Tenant was given written instructions on how to prepare. The Landlord's agents testified that they were concerned that the Tenant did not fully understand what had to be done, and therefore they had numerous conversations with the Tenant. On May 17, 2011, a pest control technician, the Tenant and building staff had a meeting in the Landlord's office to ensure the Tenant understood fully what was required. The Landlord provided the dates for the inspections and treatments.

On May 27, 2011, the Landlord provided the Tenant with written notice that he must cooperate with the Landlord and the directions of the pest control company for all future bed bug treatments, and that if he did not cooperate he would be in breach of a material term of the tenancy agreement and a Notice to End Tenancy would issue.

The Landlord's agents testified that on July 7, 2011, the Tenant gave the Landlord written notice that he would not allow anyone to enter his home except in dire emergency. On July 8, 2011, the Tenant would not allow the pest control company to have access to the rental unit for a pre-arranged canine inspection.

The Landlord's agents asked for an Order of Possession.

The Landlord's witness gave the following testimony:

The witness is an employee of the pest control company and was present at the treatments in the rental unit. In March, 2011, a huge bed bug infestation was identified in the rental unit. The rental unit was treated by spraying and heat over the next four months but the treatments were not successful. The Witness believes this is due to incomplete preparations on the Tenant's behalf. For example, clothes were not bagged and closets and drawers were not emptied and cleaned in accordance with the written instructions provided to the Tenant. On March 9, 2011 and again on April 1, 2011, the pest control company recommended to the Tenant that he remove an infected bed frame and mattress from the rental unit. On May 3, 2011, the pest control company recommended that the Tenant remove a second mattress from the rental unit.

On May 17, 2011, the witness was present at a canine inspection in the rental unit. The mattress in the master bedroom was still there. There were live bed bugs detected in a pile of clothes on the floor and on a towel. There was also live activity noted in a piece of furniture that had recently been brought into the rental unit. The Tenant was once again asked to thoroughly de-clutter, wash clothing and dispose of the infected mattress. He was also advised that treatment could be rendered ineffective if he brings in untreated used furniture from outside.

On June 7, 2011, the rental unit was properly prepared and the bed was gone. There were no live bedbugs found.

On June 16, 2011, the sniffer dog found live bugs in the dresser, bathroom baseboard, a computer desk, sofa and by the bathroom mirror. The witness testified that sniffer dog can smell only live bedbugs.

On July 8, 2011, the Tenant refused to allow the pest control company and the sniffer dog into the rental unit. Neighbouring suites were found to be clear of bed bugs, but the witness is concerned that they may become infected again if the Tenant's suite is not properly treated.

The Tenant gave the following testimony:

The Tenant testified that he has always complied with the preparation requirements. He stated that he refused entry to the pest control company on July 8, 2011, because they were going to treat the rental unit again and he does not believe there are any more bed bugs in the rental unit.

The Tenant stated that he has done much research on the computer about bed bugs. He stated that he has not been bitten recently, and that there are no visual signs of any bugs in the rental unit. He stated that his cleaning ladies have not seen any sign of bed bugs recently in the rental unit.

The Tenant was adamant that he did not bar the Landlord from doing inspections of the rental unit, but that he was not going to allow any more treatments because they were unnecessary.

When asked, the Tenant did not deny writing the letter of July 7, 2011, nor did he deny barring the pest control people and the sniffer dog from entering the rental unit on July 8, 2011.

Analysis

When a Tenant applies to cancel a Notice to End Tenancy for Cause, the onus is on the Landlord to provide sufficient evidence that the tenancy should end for the reasons noted on the Notice.

The Landlord seeks to end the tenancy for the following reasons:

- The Tenant has caused extraordinary damage to the rental unit.
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

There were a total of 8 inspections and 8 treatments in the Tenant's home between March 2, 2011 and June 16, 2011. The independent witness testified that for 5 of the 8 inspections the rental unit was not properly prepared. I find that the Landlord issued written warning on May 27, 2011, and on June 16, 2011, the Tenant failed to comply with the written warning.

Of most concern is the Tenant's refusal to allow the pest control people into his suite on July 8, 2011, in order to do an inspection. Live bugs had been found in the Tenant's home on June 16, 2011, but not in the neighbouring suites. The Landlord is concerned that failure to eradicate the bugs from the Tenant's home is also putting the rest of the building at risk. The Tenant is not an expert on bed bugs and has no right to bar the Landlord from treating his suite against bed bugs.

I dismiss the Tenant's application to cancel the Notice to End Tenancy.

Section 55(1) of the Act states:

Order of possession for the landlord

55 (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director must grant an order of possession of the rental unit to the landlord if, at the time scheduled for the hearing,

(a) the landlord makes an oral request for an order of possession, and

(b) the director dismisses the tenant's application or upholds the landlord's notice.

Based on the testimony of the parties, I am satisfied that the Tenant received the 1 Month Notice to End Tenancy on June 22, 2011. I find that the effective date of the end of the tenancy is July 31, 2011. Further to the provisions of Section 55(1) of the Act, I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., July 31, 2011.**

Conclusion

The Tenant's application is **dismissed without leave to re-apply.**

I hereby provide the Landlord an Order of Possession **effective 1:00 p.m., July 31, 2011.** This Order must be served on the Tenant and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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: July 20, 2011.

Residential Tenancy Branch