

DECISION

Dispute Codes CNC, MND, OPC, FF

Introduction

This hearing dealt with cross applications. The tenant is seeking an order to set aside a One Month Notice to End Tenancy for Cause. The landlord is seeking a monetary order and seeking an Order of Possession. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, the regulations or the tenancy agreement?

Background and Evidence

The tenancy began on or about September 1, 2010. Rent in the amount of \$1500.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$750.00.

The landlord issued a One Month Notice to End Tenancy for Cause on September 30, 2011.

The landlord gave the following testimony; the landlord was made aware that bedbugs had become a problem in the rental unit on September 7, 2011, had the unit treated by a professional pest control company, the bedbugs were found to be in two mattresses in one bedroom and a bunk bed in the second bedroom, alleges that that tenant's children brought the bedbugs in from camp and is seeking to end the tenancy. The landlord also testified to an issue that occurred in November of 2010 that is not relevant to this hearing and I advised the landlord the appropriate agency that she could pursue that matter if she chooses.

The tenants testified to the following; they have no idea where the bedbugs came from and are seeking to have the Notice set aside.

Analysis

Both parties submitted documentary evidence for this hearing. The landlord submitted a receipt from the pest control company stating the locations in the rental unit that bedbugs were found. The landlord's position is that the tenant's are responsible for bringing bedbugs into the house as there were only found in the tenant's mattresses and bunk bed.

The tenant's provided an e-mail from the inspector who conducted the inspection of the house and the inspector stated in her letter "We are unable to speculate the source as it is not possible to tell with Bed Bugs". The landlord disputes this letter as being unauthorized and a personal inquiry and it should not be taken into consideration for this hearing.

I disagree with the landlord and do take it into consideration for this hearing. The landlord confirmed that this person was the actual inspector who conducted the inspection of the suite, and submitted as part of the landlords evidence package a receipt with her name and comments on it. I find it unreasonable that the landlord would rely on this person's expertise for her evidence but then deny it as a part of the tenant's evidence.

The landlord bears the burden of proving the grounds for issuing a One Month Notice to End Tenancy. I am not satisfied with the evidence put before me by the landlord that she has met those grounds. The landlord alleges that the children must have brought home the bed bugs from camp but has no evidence of such. The landlord also offered that the bed bugs must have already been in the tenant's mattresses when they moved in. I find this scenario unlikely as well as unproven by the landlord as the tenancy began over a year ago and the first mention of bed bugs was only in the last two months.

The tenant's have been successful in their application.

The One Month Notice to End Tenancy dated September 30, 2011 has no effect or force and the tenancy continues.

The tenant is entitled to recover their filing fee. I order that the tenant reduce the rent due on December 1, 2011 by \$50.00. The rent payable on December 1, 2011 is \$1450.00.

Conclusion

The Notice is set aside.

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: November 02, 2011.

Residential Tenancy Branch