



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, RP
 OPC, FF

Introduction

This hearing dealt with cross application by the landlord and tenant. The application by the tenant is to cancel a notice to end tenancy for cause and for the landlord to complete repairs. The application by the landlord is for an order of possession for cause and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

Background and Evidence

On November 30, 2011 the landlord served the tenant with a 1 Month Notice to End Tenancy for Cause:

- The tenant has allowed an unreasonable number of occupants in the unit/site.
- The tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord.
- The tenant has adversely affected the quiet enjoyment, security, safety or physical well-being of another occupant or the landlord.

The tenant filed to dispute this notice on January 31, 2012.

The landlord testified that the tenant had been having additional people residing in his rental unit and that the tenants guests were constantly running in and out of the building causing a disturbance.

The landlord notes in his evidence that in November the tenant supposedly gave two drug dealers a counterfeit \$100 bill and the drug dealers came to the apartment building with baseball bats looking for the tenant. The landlord in his evidence also notes that the tenant would leave the front door open allowing any access to the building.

The tenant testified that he had not disputed the notice to end tenancy within 10 days as noted on the back page as he did not believe the resident manager was or could act in the landlord's stead.

The tenant stated that he advised the resident manager in November 2011 that he had an infestation of bed bugs and that to date nothing has been done about them. The landlord responded by stating that the tenant had two guests staying with him at the time and he believed these guests to be the source of the bed bugs.

The landlord stated that he has a pest control company scheduled for the end of the month but that he would see if they could come in the end of this week. The landlord stated that in the mean time the tenant could borrow his steam cleaner to try and kill some of the bed bugs.

The landlord testified that they are moving forward with the order of possession for cause and have requested an end of tenancy date of February 29, 2012.

Analysis

Section 47(4) of the Act states that **within 10 days of receiving** a Notice to End Tenancy for Cause, a tenant must apply for dispute resolution. If the tenant fails to file to dispute the notice, then under section 46(5)(a)(b) of the Act they are conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and they must vacate the rental unit at that time.

Under s. 90 of the Act, the Tenant is deemed to have received the Notice to End Tenancy on the day it is personally served, or on November 30, 2011. Consequently, the Tenants would have had to pay the amount stated on the Notice or apply to dispute that amount no later than December 12, 2011.

Based on the foregoing, I find that the tenant is conclusively presumed under section 46(5) of the Act to have accepted that the tenancy ended on the effective date of the Notice and I find that the landlord is entitled to an order of possession for cause.

In regards to the tenant's request for repairs, specifically the bed bug infestation, the landlord in this hearing stated that a pest control company is to come spray the rental unit at the end of this month but that he will make every effort to have the spraying completed by the end of this week.

The landlord in the interim has agreed to loan the tenant a steam cleaner to try and help eradicate some of the bed bugs.

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on February 29, 2012 at 1:00 PM.

The landlord is entitled to recovery of the \$50.00 filing fee.

Conclusion

The tenant's application is hereby dismissed without leave to reapply with the resulting effect that the tenancy will end on February 29, 2012 at 1:00 PM.

I hereby grant the landlord an **Order of Possession** effective not later than **1:00 PM, February 29, 2012**. This Order must be served on the tenant(s) and may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep \$50.00 of the tenant's security deposit in full satisfaction of the claim.

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: February 20, 2012

Residential Tenancy Branch