



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR and ERP

This hearing was convened on the tenant's application to have set aside a 10-day Notice to End Tenancy for unpaid rent served on March 6, 2012. The tenant also sought an order for emergency repairs to address a bed bug infestation in the rental unit.

Issue(s) to be Decided

This application requires a decision on whether the Notice to End Tenancy should be set aside or upheld and whether an order for emergency repairs is warranted.

Background and Evidence

This tenancy began on January 11, 2011. Rent is \$375 per month and the landlord holds a security deposit of \$187.50 paid on or about January 11, 2011.

During the hearing, the landlord gave evidence that the Notice to End Tenancy was served after the tenant had failed to pay the rent for January, February and March of 2012. The parties concurred that the rent arrears totalling \$1,125 remained unpaid at the time of the hearing.

The tenant stated that he had refused to pay the rent because the rental unit has suffered from a bed bug infestation throughout his tenancy. The tenant's advocate verified that he has seen large numbers of bed bugs in the unit and has attempted to assist the tenant in spraying for them.

The landlord stated that pest control specialists attend the rental building frequently, but that the tenant had impeded treatment by refusing to admit his home care workers and pest control personnel on a number of occasions. She said all such refusals are documented.

The landlord offered to continue the tenancy if the tenant would cooperate with an arrangement to catch up on the unpaid rent over time, and if he would cooperate by allowing his home care workers and pest control personnel to the rental unit when it needed treatment. The tenant declined and his advocate suggested that he should not have to pay the rent arrears.

Analysis

Section 26 of the *Act* provides that tenants must pay rent when it is due whether or not the landlord is in compliance with the legislation or rental agreement.

Section 46 of the *Act* provides that a landlord may issue a Notice to End Tenancy for unpaid rent on a day after the rent is due. The tenant may cancel the notice by paying the overdue rent or make application to dispute the notice within five days of receiving it.

In this instance, I find that, although the tenant did make application to dispute the Notice to End Tenancy, he did not pay the rent within five days of receiving the notice and declined the landlord's offer to arrange a repayment plan.

Therefore, I found that the Notice to End Tenancy for unpaid rent is lawful and valid and declined to set it aside.

On hearing that determination, the landlord requested, and I find she is entitled to, an Order of Possession to take effect two days from service of it on the tenant under section 51(1) of the *Act* which compels issuance of the order on the landlord's oral request when a tenant's application to set aside a Notice to End Tenancy fails..

As to the request for an order for emergency repairs to treat the bed bug infestation, I accept the evidence of the landlord that pest control services have regularly attended the building and will continue to do so, but treatment of the subject rental unit has been frustrated by the tenant's reluctance to admit service providers to the rental unit.

In the absence of proof to the contrary from the tenant, I cannot find that an order for emergency repairs is necessary and appropriate at present.

Conclusion

The tenant's application is dismissed without leave to reapply.

The landlord's copy of this decision is accompanied by an Order of Possession, enforceable through the Supreme Court of British Columbia, to take effect two days from service of it on the tenant.

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: March 28, 2012.

Residential Tenancy Branch