



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, ERP, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking to cancel a notice to end tenancy and an order to have the landlord complete emergency repairs.

The hearing was conducted via teleconference and was attended by both tenants; the landlord and her agent.

During the hearing, the landlord did not verbally request an order of possession should the tenants be unsuccessful in their Application.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to cancel a 1 Month Notice to End Tenancy for Cause; to an order to complete emergency repairs and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 33, 47, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began in July 2010 for a current monthly rent of approximately \$840.00 due on the 1st of each month and that a security deposit was paid.

While neither party provided a copy of a notice to end tenancy, the tenants testified they received a 1 Month Notice to End Tenancy for Cause dated June 22, 2012 with an effective vacancy date of July 31, 2012 citing that the tenants 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 tenants believe they received the Notice on June 22, 2012.

The landlord submits that the tenants have continuously failed to inform the landlord of problems with the rental unit that has resulted in damage to the rental unit; an infestation of bedbugs; and failure to maintain the unit to reasonable health and cleanliness standards.

The landlord submitted documentary evidence of scheduled bedbug treatment scheduled for October 2010 and a written note from the tenants dated October 29, 2010 refusing treatment at that time. The tenants testified that they had refused treatment at that time because the female tenant was ill but that since then they have repeatedly requested bed bug treatment.

The landlord testified the tenants have never requested treatment or provided any reports of any infestations since October 2010. The tenants testified that they have been requesting treatment for bedbugs all along; sometimes in writing and sometimes just verbally. The tenants did not provide any copies of written requests.

The landlord testified that they conducted a condition inspection of the unit in May 2011 and provided a copy of a follow up letter to the tenants dated June 10, 2011 reminding the tenants that they have an obligation under the *Act* to repair any damage they cause; keep the unit clean; and contact the landlord as soon as possible when a repair is needed.

The letter also advises the tenants that they will be responsible for the repair costs and to contact the office to discuss repairs costs for damages the landlord found during the inspection such as stains on bedroom floors; broken washroom light fixtures; broken closet door; broken windows and chipped counter tops.

The landlord submits that they completed a follow up inspection a month later and found minimal improvement. The landlord testified no additional follow up on this matter was completed.

The landlord submits also that the tenants were advised in writing that due to recent reports of bedbugs the landlord had arranged for an inspection on June 21, 2012. On June 19, 2012 the female tenant attended the office and confirmed they had bedbugs but refused to allow the landlord to complete inspection. Subsequently the tenant agreed to the inspection.

The landlord also asserts that on the night of June 19, 2012 at 9:25 p.m. the tenants threw a wooden bed frame infested with bed bugs into the garbage bin which is a violation on "proper garbage disposal and a serious health hazard." The landlord indicated that this event was caught on camera, however, no photograph or videotape was provided into evidence. The tenants acknowledge throwing out a bed frame but contend it was not infested with bed bugs.

The landlord confirmed that no warning letters advising the tenants of the possibility of ending the tenancy based on some of these issues. The landlord believes that the seriousness and degree of infestation found in the rental unit is sufficient to ending the tenancy without warnings to the tenants.

Analysis

Section 47 of the *Act* allows a landlord to end a tenancy by giving notice to end the tenancy if, in addition to other causes, the following applies:

- The tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant.

While I accept, from the evidence provided by the landlord, that the tenants may not be maintaining the rental unit in accordance with their obligations to health and cleanliness standards and that the tenant's failure to participate in a previous attempt to treat for bedbugs, I am not satisfied the landlord provided adequate warning to the tenants as to the consequences of failing to comply.

From the evidence and testimony provided by the landlord, I find the landlord did not follow up with the tenants after their second inspection to ensure the tenants were either repairing the damage the landlord was citing or to make the repairs and later charge the tenants.

I also find that the landlord did not follow up with the tenants at all after the tenants refused the bedbug treatment in October 29, 2010 and as such has failed to establish that the landlord had been taking the issue of bedbugs sufficiently serious to consider the ending of the tenancy.

And finally, as per the landlord's testimony no warnings were provided to the tenants that their actions may be justification to end their tenancy I find the landlord has failed to inform the tenants by both their actions and lack of warning sufficiently of the consequences of these acts and can therefore not rely upon these causes to end the tenancy.

While the tenants have failed to provide any evidence that they had repeatedly complained about bedbugs, I do accept that at least on two occasions the tenants have impeded the landlord from following through on the steps required to cause effective bedbug treatment.

Despite the tenants seeking, in their Application, an order to have the landlord provide bedbug treatment, I find the landlord has and is taking reasonable steps for such treatment and that it is the tenants who have prevented that treatment. As such, I order that the tenants comply with any requirements to ensure the landlord's treatment plan for both the rental unit and the residential property is completed.

Conclusion

For the reasons noted above, I find the landlord has failed to establish any cause to end the tenancy and I order the tenants may cancel the 1 Month Notice to End Tenancy for Cause issued on June 22, 2012 and that the tenancy remains in full force and effect.

However, I caution the tenants that they should now consider that they have been sufficiently warned that failure to comply with their obligations to maintain the unit to health and cleanliness standards and report problems and damage as soon as possible may result in the landlord ending the tenancy.

I dismiss the portion of the tenant's Application seeking an order to have the landlord make emergency repairs for the reasons note above. As the tenants were only partially successful I order that they are entitled to recover \$25.00 of the \$50.00 filing fee by reducing it from a future rent payment.

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 19, 2012.

Residential Tenancy Branch