



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding DOLE ENTERPRISES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OPC, CNC, FF

Introduction

In the first application the landlord seeks an order of possession pursuant to a one month Notice to End Tenancy served May 29, 2013, given for cause.

In the second application the tenant seeks to cancel that Notice. His application to do so was made well past the 10 day period permitted by law (though made before the June 30, 2013 effective date of the Notice) and so his claim was amended to include a request for an extension of time to do so, which I granted at hearing.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show, on a balance of probabilities, that the tenant has conducted himself in such a manner as to justify the termination of the tenancy on the bases given in the Notice, namely, either that he has seriously jeopardized the health or safety of lawful right or another occupant or the landlord or has put the landlord's property at significant risk or that he has caused extraordinary damage to the unit or property?

Background and Evidence

The rental unit is a two bedroom apartment. The tenancy started in May 2009. The monthly rent is \$920.00 and the landlord holds a \$380.00 security deposit.

The landlord's evidence is that as a result of observing some garbage bagged and sitting in the hallway outside this apartment, the landlord's agent, Ms. S. gave 24 hour Notice and on May 23rd, inspected the tenant's apartment. Her photos from that day show virtually every square foot of living area outside the kitchen/dining room, and but for some narrow pathways, to be covered with the tenant's belongings. The living room floor appears to be covered with 2 litre pop bottles. The second bedroom floor is

completely covered with items stacked up to four feet high. The kitchen counters and stove top are covered with various items. There is a portable grill stored in the oven itself. The landlord testified that there was significant food splatter around the kitchen and that there were flies and ants observable in the debris. She noted that the floor in front of the refrigerator appeared to be wet. She noted air conditioners installed by the tenant in the bedroom windows with cords running through the debris.

As a result of the attendance the landlord gave the tenant written notice to de-clutter and clean the premises.

The tenant was taken to hospital on May 24th and discharged either May 31st (according to Ms. S.) or June 2nd (according to a Fraser Health social worker). He has significant medical problems including kidney failure, heart disease and diabetes. He has obtained the assistance of some social support people to help him with the upkeep of the apartment but they have not, to date, de-cluttered or cleaned the rental unit. He says he is limited to the time he can spend on his feet. He denies there being any bug problem. He is disturbed by what he sees as illegal entries by the landlord. He considers himself to be a collector of various items, not a "hoarder."

Unfortunately, as the landlord's evidence shows, an additional inspection of the rental unit occurred on June 24th and the condition or state of the rental unit had not changed significantly.

Analysis

This decision was rendered orally at hearing.

The tenant is an elderly gentleman with significant health problems. He needs the assistance of family, friends or the care services provided by the community.

The landlord is not legally responsible to either provide that care or see that the tenant gets it. This accommodation is not a care facility.

The landlord's primary concerns are, amongst others, the care of its rental units and the safety of its tenants and property.

I agree with the landlord's representative that the present state of the tenant's apartment creates a significant risk to the landlord's property and to other tenants in the building. A bumped oven switch could lead to combustion of items being stored in it. In an emergency the landlord does not have reasonable access to the hot water radiators

and their valves in each room. The apartment is serving as a breeding ground for insects.

It is with great reluctance that I maintain the landlord's Notice to End Tenancy and dismiss the tenant's application to cancel it. The landlord will have the requested order of possession.

It is my hope, expressed at hearing, that the tenant can obtain the assistance he needs, have the premises properly cleaned and thereafter maintained in a reasonable condition and thereby persuade the landlord that this eviction is not necessary.

Conclusion

The tenant's application is dismissed. The landlord's application is allowed. There will be an order of possession. The landlord is entitled to recover its \$50.00 filing fee for its application. I authorize the landlord to recover the \$50.00 fee from the security deposit it is holding.

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 10, 2013

Residential Tenancy Branch