



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bon Terra Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNC; DRI; LAT; RP; O

Introduction

This Hearing was scheduled to hear the Tenant's application to cancel a *One Month Notice to End Tenancy for Cause* issued May 3, 2014 (the "Notice"); to dispute an additional rent increase; for an Order authorizing the Tenant to change the locks to the rental unit; for an Order that the Landlord make general repairs to the rental unit; and for other unspecified "other" order(s).

The parties gave affirmed testimony at the Hearing.

It was determined that the Tenant served the Landlord with the Notice of Hearing documents and copies of her documentary evidence by delivering the documents to Landlord's agent T on May 16, 2014.

The Landlord's agent VD testified that he believed T gave the Tenant a copy of the Landlord's documentary evidence. The Tenant denied receiving any documentary evidence from the Landlord. I find that the Landlord did not provide sufficient evidence of service and therefore declined to consider the Landlord's documentary evidence; however, I invited VD to provide oral testimony with respect to its contents.

Preliminary Matter

The Residential Tenancy Rules of Procedure provide that for disputes to be combined on an application they must be related. I find that that the Tenant's monetary claim is not sufficiently related to the main issue, which the Tenant advised is to cancel the Notice. Therefore, **I dismissed the remainder of the Tenant's application with leave to reapply.** The Hearing continued with respect to the Tenant's application to cancel the Notice only.

Background and Evidence

On December 30, 2013, a Hearing was convened with respect to the Tenant's application to cancel a notice to end tenancy for cause. At that Hearing the parties

reached a settlement agreement, the terms of which was recorded by the arbitrator in a Decision dated December 30, 2013. The Tenant provided a copy of that Decision in evidence ("the Settlement Agreement").

VD stated that since the Settlement Agreement was made, the Landlord attempted to have the rental unit treated twice for cockroaches and bed bugs: on February 12, 2014; and May 1, 2014.

VD testified that the exterminator was unable to do her job because the Tenant had not prepared the rental unit in accordance to written instructions that were provided to her. He stated that there was a "huge amount of boxes", certain materials were not packed in plastic, and that there was "no room" for the exterminator to access the baseboards or to move freely about the rental unit. VD testified that the Landlord gave the Tenant prior written notice that the exterminator was coming. VD stated that the notice and instructions were given one week prior to the date that the exterminator came.

The Tenant testified that the first time the exterminator came was for cockroaches and that it was on October 24, 2013. She stated that the second time was for bed bugs, but that she had been told by a former manager that the exterminator would be there May 7 or 8, 2014. She stated that she had been assured that she would have plenty of time to get ready for the exterminator, but that she received written notice on April 27 that the exterminator was coming on May 1, 2014. The Tenant stated that she was disabled and was not able to get ready in only 4 days.

VD stated that it was possible that the date had been changed, but that the Landlord had to work with the exterminator's schedule. He submitted that four days was sufficient notice, because the Tenant was supposed to keep the rental unit reasonably clean all the time.

VD stated that the Tenant was served with the Notice to End Tenancy, in person on May 3, 2014. The Tenant disputed that she was served personally. She stated that the Notice was given to her friend who lives with her. The Tenant also stated that her friend gave her the Notice on May 3, 2014.

The Landlord asked for an Order of Possession and stated that he wished to give the Tenant more time to find new accommodation. He asked that the Order of Possession be effective July 31, 2014.

Analysis

The Settlement Agreement of December 30, 2013, recorded the following terms:

1. The landlord agreed that the tenancy will continue provided the tenant agrees to keep the unit in a reasonably clean state in accordance with the requirements set

out in the Act. **This includes removing all the cardboard boxes inside the rental suite that enables the landlord to fully perform pest treatments of bed bugs and cockroaches.**

2. The tenant agreed to perform the above condition regarding the **removal of the cardboard boxes by the January 31, 2014**

(reproduced as written, my emphasis added)

I find that the Tenant did not comply with the Settlement Agreement of December 30, 2014.

The Notice gives the following reasons for ending the tenancy:

The Tenant or a person permitted on the property by the Tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the Landlord;
- seriously jeopardized the health or safety or lawful right of another occupant or the Landlord; and
- put the Landlord's property at significant risk.

Non-compliance with an order under the legislation within 30 days after the Tenant received the order or the date in the order.

I explained to the Tenant that the Landlord has a duty under Section 32 of the Act to provide ALL of its tenants with living accommodation that complies with the health, safety and housing standards required by law and which makes it suitable for occupation by a tenant. Once cockroaches and bedbugs are established in a building, they move very quickly throughout living accommodations. Unless strict procedures are followed by all tenants, they can be very difficult to eradicate.

I find that the Landlord gave the Tenant due notice under Section 29 of the Act. I also find that the Landlord gave the Tenant adequate instructions with respect to how to prepare the rental unit for pest extermination and that the Tenant did not adequately prepare for the extermination. I find that the Tenant's failure to prepare for extermination has seriously jeopardized the health or safety or lawful right of the other tenants in the building and put the Landlord's property at significant risk.

Therefore, I find that the Notice is a valid notice to end the tenancy and the **Tenant's application to cancel the Notice is dismissed.**

Section 55(1) of the Act states:

- 55** (1) If a tenant makes an application for dispute resolution to dispute a landlord's notice to end a tenancy, the director **must** grant an order of

possession of the rental unit to the landlord if, at the time scheduled for the hearing,

- (a) the landlord makes an oral request for an order of possession, and
- (b) the director dismisses the tenant's application or upholds the landlord's notice.

I find that the Tenant was duly served with the Notice, in accordance with the provisions of Section 88(e) of the Act. In addition, the Tenant agreed that she received the Notice on May 3, 2014, and therefore I find that the effective date of the Notice was June 30, 2014. However, the Landlord seeks an Order of Possession effective July 31, 2014. Further to the provisions of Section 55(1) of the Act, I find that the Landlord is entitled to an Order of Possession effective July 31, 2014.

Conclusion

The Tenants' application to cancel the Notice is dismissed. The remainder of the Tenant's application is dismissed **with leave to re-apply**.

I hereby provide the Landlord with an Order of Possession **effective 1:00 p.m., July 31, 2014**. This Order may be filed in the Supreme Court of British Columbia and enforced as an Order of that Court.

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 04, 2014

Residential Tenancy Branch