



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 928 Mainstreet Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC, MT

Introduction

This was a hearing with respect to the tenant's application to cancel a one month Notice to End Tenancy for cause. The hearing was conducted by conference call. The landlord's representatives and the tenant called in and participated in the hearing.

Issue(s) to be Decided

Should the Notice to End Tenancy dated January 27, 2016 be cancelled?

Background and Evidence

The rental unit is a room in the landlord's single room occupancy hotel in Vancouver. The tenancy began in April, 2014. The monthly rent is \$400.00. The tenant paid a security deposit of \$200.00 and a refundable key fob deposit of \$50.00 at the start of the tenancy.

The landlord served the tenant with a one month Notice to End Tenancy for cause dated January 27, 2016. The Notice to End Tenancy required the tenant to move out of the rental unit on February 29, 2016. The Notice was served on January 27, 2016 by posting a copy to the door of the rental unit. In his application for dispute resolution the tenant acknowledged that he received the Notice to End Tenancy on January 27, 2016. The tenant did not file his application to dispute the Notice to End Tenancy until February 24, 2016.

The stated reason for the Notice to End Tenancy is that the tenant has breached a material term of the tenancy agreement. As set out in a letter delivered to the tenant dated December 18, 2015 the landlord said that after an inspection of the rental unit on December 16, 2015, the landlord found the condition of the unit to be unacceptable. The landlord gave the tenant notice that it would re-inspect his unit on December 23rd

and if the condition was not improved the landlord would have no alternative but to take further action up to and including serving a Notice to End Tenancy for cause.

The landlord submitted photographs of the interior of the rental unit. the landlord testified that the unit is infested with bedbugs and the pest control company is unable to treat the unit due to the disarray and clutter. The landlord's manager testified that he visited the unit on January 14th. The tenant had not complied with the order to clean up the room. He said the room was disgusting and he described the smell in the rental unit as terrible. He referred to the refrigerator as a bio-hazard. Other occupants in the building are complaining about the smell from the rental unit.

The landlord submitted photographs of the rental unit. The pictures show an extremely cluttered room with many garbage bags and boxes filled with belongings. The refrigerator was very dirty with old food containers, spoiled contents and spillage.

The tenant said at the hearing that he has recently cleaned the rental unit including the refrigerator. He said it is very neat except for bags of goods to be disposed of. The tenant described the unit as now looking and smelling like a "Holiday Inn". The tenant said he has been dealing with the continuous presence of bedbugs in the rental unit since his tenancy started. He said that he has difficulty disposing of his contaminated belongings because of the problem finding a safe place to dispose of them and he had had to sort through his belongings and clothing to determine what to keep and clean and what to discard.

The landlord's representative said that he inspected the rental unit the day before the hearing. He denied that it was cleaned. He said it was still cluttered and messy and still smelled terrible, although he acknowledged that he did not look inside the fridge. The landlord requested that the Notice be upheld and the landlord be granted an order of possession because of the urgent need to treat the unit for bedbugs. The landlord said that despite many warnings and opportunities, the tenant still has not cleaned up the rental unit.

Analysis

The tenant has received written warnings that he may be evicted if he does not clean the rental unit. The tenant was served with the Notice to End Tenancy on January 27, 2016. The tenant did not provide any explanation for his failure to apply to dispute the Notice within the 10 day time period required by the *Residential Tenancy Act*.

The tenant said at the hearing that his room was now acceptably clean, but his testimony was contradicted by the testimony of the landlord's manager who inspected the unit within the last two days before the hearing. The tenant knew that the condition of the rental unit would be an issue at this hearing. He has not provided any photographs to support his testimony as to the current condition of the unit and I accept and prefer the landlord's evidence that the unit is still not acceptably clean and that it cannot be treated by the pest control company in its current condition.

The tenant's application to cancel the Notice to End Tenancy was filed out of time. He has not provided any compelling reason for his failure to file the application in time. The landlord has provided convincing evidence that the tenant has breached a material term of his tenancy agreement by failing to keep the unit acceptably clean after written notice to do so. The tenant's application to cancel the Notice to End Tenancy is dismissed without leave to reapply. The landlord's Notice to End Tenancy was in the proper form and complied with the requirements of the *Residential Tenancy Act*. Pursuant to section 55 of the *Act* I am required to grant the landlord an order of possession upon dismissal of the tenant's application in these circumstances. The landlord is entitled to an order of possession effective two days after service on the tenant. This order may be filed in the Supreme Court and enforced as an order of that court.

Conclusion

The tenant's application has been dismissed. The landlord has been granted an order of possession.

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: April 15, 2016

Residential Tenancy Branch