



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RAAMCO INTERNATIONAL PROPERTIES CANADIAN LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes Landlord: OPC, MNR, MNDC, FF
Tenant: MT, CNC

This hearing dealt with cross Applications for Dispute Resolution. The Landlord's application, dated April 5, 2016, seeks the following relief pursuant to the *Residential Tenancy Act* (the "Act"): an order of possession; a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; and a monetary order granting recovery of the filing fee.

The Tenants' seek the following relief pursuant to the Act: an order granting more time to make an application; and an order cancelling a 1 Month Notice to End Tenancy for Cause, dated February 18, 2016 (the "1 Month Notice").

C.G. and S.M. appeared at the hearing as agents for the Landlord. A witness, B.D., proffered evidence of steps taken to control a bed bug infestation. D.P. appeared on behalf of both Tenants. All participants in the hearing provided their solemn affirmation.

The Tenant acknowledged receipt of the Landlord's evidence packages, sent by registered mail. Although the Landlord claimed not to have received the Tenants' evidence package, I proceeded with the application as much of the evidence is duplicative.

Background and Evidence

The Landlord's documentary evidence includes a copy of the tenancy agreement between the parties, dated January 31, 2014. It describes an initial fixed-term tenancy commencing on February 1, 2014, and ending on January 31, 2015. Since the end of the fixed term, the tenancy has continued on a month-to-month basis. Rent in the amount of \$900.00 per month is due on the first day of each month.

As the Landlord bears the burden of proving the validity of the 1 Month Notice, the Landlord's agents provided their oral evidence first. They confirmed the Tenants were served with the 1 Month Notice, in person, on February 18, 2015. This is supported by

a signed Proof of Service document wherein a witness, D.P., confirms she observed S.M. give the 1 Month Notice to the Tenants in person on that date.

The Landlord claims the Tenants are responsible for bringing bedbugs into the apartment building, and that they have incurred significant expenses to deal with the infestation. They also expect to incur additional expenses to deal with the problem in the future. Specifically, the additional expenses will likely include the cost of further treatments, removing and replacing carpet, and wrapping furniture for removal.

The evidence provided by the Landlord's agents was that the bedbug issue was first discovered when the cleaner noticed them in the shared laundry room. S.M. said the dryer was observed to be "full of bedbugs".

In response to this discovery, the Landlord hired a pest control company in early February 2016. A dog came to the apartment and found the Tenants' suite to be infested. The Landlord's agents referred me to photographs showing eggs on a bed in the Tenants' rental unit. Other images depict bedbugs along a baseboard. Significantly, the Tenant acknowledged in her testimony that this bed was obtained and brought into the Tenants' rental unit several months before the infestation was discovered.

The Landlord has continued to treat the problem, at further expense.

B.D., a representative of the pest control company retained by the Landlord, appeared as a witness. He said he has 25 years of experience in the residential and commercial pest control industry, and has expertise in dealing with bedbugs. B.D. testified that his initial inspection confirmed the infestation was "quite significant". Given the presence of bedbugs in various stages of development, he thought it likely they had been present for at least six months, and possibly up to a year. He concluded the Tenants' suite was the "source unit for any bedbugs that had spread" to other units.

D.P. gave affirmed evidence on behalf of both Tenants. She testified that she and J.F. fell in love with the apartment when they first saw it. However, soon after they moved in the Tenants noticed something on the floor and determined it was a carpet beetle. They treated it with a commercially available spray and thought the problem had been dealt with.

The Tenants subsequently noticed a "considerable amount" of bedbugs but did not bring them to the immediate attention of the Landlord. D.P. indicated she was somewhat embarrassed and concluded she had apparently not been looking in the right

places. I note the Tenant should have notified the Landlord as soon as they saw the bedbugs, in order to have the Landlord deal with the bugs sooner and therefore, mitigate her losses.

D.P. also gave oral evidence about J.F., who is elderly, has dementia and other health concerns. She says the treatments have been effective and that she has not seen another bedbug in the rental unit. They cannot move easily.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on the balance of probabilities, I find the following:

The Landlord's evidence is that the 1 Month Notice was served on the Tenants, in person, on February 18, 2016. The Landlord has included a copy of a Proof of Service document. Although the Tenants allege they did not receive the 1 Month Notice until March 15, 2016, they have provided insufficient evidence in support. I find the Tenants were duly served with the 1 Month Notice on February 18, 2016.

Section 47 of the Act sets out the procedure for ending a tenancy for cause. This provision requires a tenant to dispute a notice to end tenancy for cause within 10 days after being served with the notice. Failure to do so leads to the conclusive presumption that the tenant has accepted the end of the tenancy.

The Tenants filed their application for dispute resolution on March 29, 2016, long after the 10 day timeframe had elapsed. The Tenants are out of time to bring their application. Accordingly, the Tenant's application is dismissed in its entirety, without leave to reapply.

The Landlord has requested an order of possession. In light of the above, and pursuant to section 55 of the Act, I find the Landlord is entitled to an order of possession, which will be effective May 31, 2016, at 1:00 p.m. The rights and obligations of both parties pursuant to the Act, regulations and the tenancy agreement, including payment of rent, will continue in effect until that time.

The Landlord is also seeking a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement. Specifically, the Landlord wishes to be reimbursed for the expenses incurred to date to deal with the bedbug issue.

The Landlord has provided a Monetary Order Worksheet, which I find accurately calculates the costs incurred by the Landlord to date to deal with the bedbugs. I find the Tenants owe the Landlord \$2,362.50 to reimburse these losses incurred to date.

As the Landlord has been successful, the Landlord is entitled to recovery of the \$100.00 filing fee.

Pursuant to section 67 of the Act, I find the Landlord is entitled to a total monetary order in the amount of \$2,462.50.

Conclusion

The Tenant's application was not brought on time pursuant to section 47 of the Act. Accordingly, it is dismissed in its entirety, without leave to reapply.

I grant the Landlord a monetary order in the amount of \$2,462.50. The monetary order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Further, I grant the Landlord an order of possession, which will be effective May 31, 2016, at 1:00 p.m. The order of possession may be filed in the Supreme Court 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: May 06, 2016

Residential Tenancy Branch