



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MAINSTREET EQUITY CORP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes cnc, olc, mndc, ff

Introduction:

The tenants apply for an order to cancel a Notice to End Tenancy, which alleges that the tenant or a person permitted on the residential property has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant. The tenants also seek a monetary order, and an order that the landlord comply with the Act, Regulation, or the tenancy agreement.

Both parties attended the hearing and provided testimony. In making this decision, I have considered that testimony, and the documentary materials and photographs provided by the parties.

Issue(s) to be decided:

Should the Notice to End Tenancy be cancelled, or has the landlord established grounds to end this tenancy and be issued an Order of Possession?

Are the tenants entitled to a monetary order?

Should the landlord's be given an order to comply?

Background and Evidence

This tenancy began August 1, 2015. The current monthly rent is \$925.00. A one month Notice to End Tenancy was given to the tenant on June 28, 2016, to end this tenancy effective July 31, 2016.

The landlord submits that the tenants have two dogs that bark constantly, and bother other tenants. The landlord further submits that the unit has a cockroach infestation, but did not have one when this tenancy first began. Pest control has been unable to rectify the situation because the tenants rental unit is too cluttered, and because the tenants fails to prepare the premises for treatment, despite instructions and warnings. The final attempt to treat the premises was June 27, and the June 28, the landlord wrote the tenants to say that the Pest Control Company's report indicated they had again not been prepared for the June 27 treatment, and therefore were now to be evicted.

The tenants submit that the One Month Notice was never given regarding their dogs, and in any event the dogs have not been a problem for months, ever since silencer collars were put on the dogs.

The tenants submit that they have endeavoured to cooperate with the pest control company. They advise (in their written letter) that they did not receive the notice for the last treatment attempt for Monday June 27 until Friday, June 24. They tried to delay this treatment date, but could only reach "after hours" staff. On Monday morning a representative for the landlord in the office confirmed that the appointment would be rescheduled.

The report of the Pest Control company regarding the June 27 treatment date was that they knocked at the door but there was no answer. They heard dogs barking, but never entered the suite.

Analysis:

The Notice to End Tenancy makes no mention of being given as a result of a disturbance of other occupants, and I find that the Notice does not relate to the issue of barking dogs, and is not effective to end the tenancy for that cause.

The landlord's letter of June 28 does not coincide with the report of the Pest Control company. The letter indicates the report confirms the unit was not prepared for treatment, whereas the report in fact indicates the unit was never entered. Further, I accept the tenants' evidence that a representative at the landlord's office agreed to reschedule the treatment date (which never occurred). I therefore find that the landlord has not sufficiently proven cause to end this tenancy. The Notice is cancelled, and the tenancy shall continue.

The tenants allege they have lost food and a microwave. They have not proven that the landlord's are at fault for such loss, nor have they provided supporting evidence for this monetary claim. The monetary claim of the tenants is dismissed.

The tenants have not proven that the landlords have failed to comply with their requirements as to an infestation in the unit, and they have not proven that the infestation originates in a location other than their unit. On the contrary, the landlords have repeatedly attempted to treat the tenants' unit for a cockroach infestation. While the tenants have done some preparation at times for this treatment, the reports of the Pest Control make it clear that the premises are cluttered, appliances are not pulled from walls, and the tenants fail to fully prepare the unit for treatment. While the current eviction notice has been cancelled, the tenants are warned that should they not de-clutter their premises and fully comply with all preparations required in the future by the Pest Control company, they risk eviction.

As the tenants are successful with a portion of their application, I order that the landlord must reimburse them half the cost of the filing fee, which is \$50.00. This \$50.00 payment may be satisfied by way of a deduction by the tenants from a monthly rent payment.

Conclusion

The subject Notice to End Tenancy is cancelled. The balance of the tenants' claim is dismissed (other than the reimbursement of half the filing fee).

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: August 18, 2016

Residential Tenancy Branch