



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding METRO VANCOUVER HOUSING CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- cancellation of the landlord's 1 Month Notice to End Tenancy for Cause (the 1 Month Notice) pursuant to section 47.

Both parties attended the hearing via conference call and provided affirmed testimony. The tenant stated that the landlord was served with the notice of hearing package and all of the submitted documentary evidence by placing each package in the landlord's mail slot in the building caretakers office on January 19, 2017, January 23, 2017 and January 25, 2017. The landlord confirmed receipt of all of these items except the 4 photographs from the January 23, 2017 package. The tenant was unable to provide any form of proof of service for those photographs. As such, those 4 photographs are excluded from consideration in this hearing. The landlord also stated that her submitted documentary evidence was served to the tenant via Canada Post XpressPost on January 30, 2017. The tenant confirmed receipt of the landlords documentary evidence in this manner. I accept the undisputed affirmed evidence of both parties regarding the remaining items: Notice of Hearing Package and the submitted documentary evidence and find that both parties have been sufficiently served as per sections 88 and 89 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order cancelling the 1 Month Notice?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on November 1, 2011 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated October 18, 2011. The monthly rent began with a market rent of \$925.00 of which the tenant's portion based upon income was \$425.00, payable on the 1st day of each month. A security deposit of \$462.50 was paid.

Both parties agreed that the landlord served the tenant with a 1 Month Notice dated January 12, 2017 in person on January 12, 2017. The 1 Month Notice sets out an effective end of tenancy date of February 28, 2017 and that it was being given as:

- the tenant or person permitted on the property by the tenant has:
 - put the landlord's property at significant risk; and
- Breach of a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord claims that over a period of time between September 18, 2015 and January 12, 2017 the tenant has failed to maintain the rental premises in a manner that meets sanitary health concerns. The landlord stated that the tenant was given multiple requests to maintain the rental unit to meet health standards to resolve the bed bug issue. The tenant disputes this stating that she has complied with all of the instructions provided by the landlord and her contractors to resolve the bedbug issue.

In support of this claim the landlord relies upon the pest control contractors' reports with the noted concerns for:

September 18, 2015	Increased sanitation required for treatment to be effective
August 22, 2016	house is very cluttered and messy and needs a good cleaning
October 3, 2016	found a juvenile on the box spring and some live baby bedbugs on the mattress and boxspring
October 12, 2016	clutter still problematic. Items in bags and other misc. items can be a source of reintroduction
November 7, 2016	No adult bed bugs found. 1 juvenile bed bug found in daughters room under boxspring.

November 22, 2016	found dead bed bug activity in 2 of the climb up, "told tenant that the boxspring encasement needs to stay off the floor and that nothing else should be bypassing the climb ups.
December 16, 2016	2 first stage juvenile bed bugs found and fed on box spring of sons room.
January 10, 2017	increased sanitation required for treatment to be effective. Climb ups not functioning as they are very dirty and need to be cleaned. "Encasements touching floor again. Sons room, 1 st stage juveniles found near boxspring zipper lock and corners

Analysis

In an application to cancel a 1 Month Notice, the landlord has the onus of proving on a balance of probabilities that at least one of the reasons set out in the notice is met.

I accept the evidence of both parties and find that the landlord did properly serve the tenant with the 1 Month Notice dated January 12, 2017 in person on January 12, 2017 as confirmed by the tenant.

In this case, the landlord claims that the tenant has failed to maintain the rental premises in a manner that would satisfy health and safety concerns over bed bugs. The landlord has provided undisputed evidence that the bed bug issues arose beginning September of 2015 and that the landlord has retained a pest control contractor on at least 9 occasions to attend, inspect and treat the rental premises for bed bugs. The landlord stated that the tenant was given instructions on each occasion to properly prepare the rental premises for an effective treatment. The landlord claims that the tenant has failed in this regard as the bed bug issues continue as shown in the last report dated January 10, 2017. The tenant argues that she has complied with all of the instructions provided by the landlord and the pest control contractor. The tenant stated that she has retained her own pest control service for a heat treatment that was made on January 17, 2017. The tenant clarified that she provided a copy of the service invoice, but noted that the date of the invoice was incorrectly marked as January 20, 2017.

In reviewing the evidence of both parties, I found that the landlord has failed to identify the source of the bedbugs, only indicated that the bedbugs are confined to the tenant's rental premises. The tenant had retained her own pest control service, but that no inspection was made and that just a treatment was ordered. Both parties were unable

to provide any details of a source for the bedbugs. I also found based upon the evidence of the tenant that she was given contradictory instructions on the care/cleaning of the rental premises regarding the climb ups. The tenant provided undisputed affirmed testimony that she was instructed not to touch the climb ups to allow an effective treatment. Both parties confirmed that in the January 10, 2017 inspections/treatment report that the climb ups were noted as not functioning as they were dirty and must be cleaned. I find that these are contradictory instructions provided to the tenant and that it would be a high probability that the previous treatments would not have been effective, as was the case. I find that the landlord has failed provide sufficient evidence that the tenant failed to comply with maintaining the rental premises. As such, I find that the landlord has failed to establish a claim for her reasons of the 1 Month Notice dated January 12, 2017 and that the 1 Month Notice is set aside. The tenancy shall continue. The tenant's application to cancel the 1 Month Notice is granted.

Conclusion

The tenant's application to cancel the 1 Month Notice dated January 12, 2017 is granted.

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: February 10, 2017

Residential Tenancy Branch