



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding MARSON ENT. LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: OPC MNSD FF

Introduction:

Only the landlord/applicant attended the hearing and gave sworn testimony. The Notice to End Tenancy is dated December 12, 2017 to be effective January 31, 2018 and the landlord testified they served it and the Application for Dispute Resolution personally on the tenant with a witness (in evidence). I find the documents were legally served pursuant to section 89 of the Act for the purposes of this hearing. The landlord applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To obtain an Order of Possession for cause pursuant to section 47; and
- b) To recover the filing fee for this application.

Issue(s) to be Decided:

Has the landlord proved on the balance of probabilities that the tenancy is ended pursuant to section 47 and they are entitled to an Order of Possession? Is the landlord entitled to retain the security deposit and to recover the filing fee?

Background and Evidence

Only the landlord attended the hearing and was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced July 1, 2010, rent is now \$686 a month and a security deposit of \$300 was paid June 9, 2010.

The landlord served the Notice to End Tenancy pursuant to section 47 for the following reasons:

- a) The tenant or a person permitted on the property by them
 - (i) has seriously jeopardized the health, safety or lawful right of another occupant or the landlord; and
 - (ii) put the landlord's property at significant risk.

- b) The tenant has breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The landlord said the tenant had bed bugs in his unit and the tenant was refusing to allow the pest control technicians to treat his unit. He said the tenant discovered them and showed one in a jar. The landlord engaged pest control and advised the tenant by letter on December 6, 2017 to prepare for mandatory treatment for which they would pay. Treatments were scheduled for December 12, 2017 and December 19, 2017. The tenant in a hand written note which is in evidence said he told the landlord to cancel the treatments. He had slept on his hide-a-bed and was planning to redo the other bed soon so all was fine. Another note again denied treatment and said to stop insisting.

The landlord gave a letter dated December 18, 2017 to the tenant stating it was necessary to eliminate the bugs in the tenant's suite before they infect the neighbours' suites. They pointed out that his refusal was endangering the health, safety and lawful rights of the other tenants and he could incur significant charges for treatments and legal expenses incurred due to his failure to comply and protect other tenants. The landlord said the tenant finally allowed the treatment in January but they wish to proceed and get an Order of Possession.

The landlord also requested to retain the security deposit for the cost of clean up after the tenant vacates. They said there will be significant clean up required. The tenant is still residing in the suite.

Analysis:

Section 47 of the Act provides a landlord may end a tenancy if there is sufficient cause. Causes, any one of which may be a sufficient reason, are listed in that section. I find section 47(4) states a tenant has 10 days to dispute the Notice to End Tenancy. If they do not file an application to dispute within this time, I find section 47(5) provides they are conclusively presumed to have accepted the end of the tenancy on the date set out on the notice and must vacate the rental unit by that date. I find this tenancy ended on January 31, 2018 pursuant to the undisputed Notice to End Tenancy. I also find the landlord had sufficient cause to end the tenancy. I find the tenant by his refusal in December 2017 to allow pest control treatment in his infected unit was seriously jeopardizing the health, safety and lawful rights of other tenants and putting the landlord's property at significant risk. I find the landlord entitled to an Order of Possession effective two days from service.

In respect to the compensation claim for clean up of the unit, I find insufficient evidence that this cost has been incurred as the tenant has not vacated. I give the landlord leave to reapply for damages after the tenant has vacated.

The landlord said he was required to pay \$200 for filing fee. They provided a receipt in evidence and asked for reimbursement pursuant to section 72 of the Act. I find the landlord entitled to recover their filing fees pursuant to section 72. However, I find their payment of only \$100 is recorded on their file (Office (5000004045)) so I find them entitled to recover \$100 which is the normal filing fee. Perhaps they paid for two applications at the same time? If not, I suggest they contact the office where they paid and obtain an explanation.

Conclusion:

I find the landlord entitled to an Order of Possession effective two days from service. I find the landlord entitled to recover \$200 for their filing fee. I give the landlord leave to reapply for compensation for any damages after the tenant has vacated.

I HEREBY ORDER that the landlord may recover their filing fee by deducting \$100 from the tenant's security deposit which will leave \$200 security deposit in trust.

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: March 06, 2018

Residential Tenancy Branch