



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AMBER PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

CNC, MT, MNDCT, RR

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied to set aside a Notice to End Tenancy for Cause; for more time to dispute the Notice to End Tenancy for Cause, for a monetary Order for money owed or compensation for damage or loss; and for authority to reduce the rent.

The Tenant stated that on August 03, 2018 the Application for Dispute Resolution and the Notice of Hearing were personally delivered to the Landlord's business office. The Building Manager stated that these documents were delivered to the Landlord's business office on June 28, 2018. As the Landlord acknowledged receiving these documents at their business address, I find that they were served in accordance with section 89 of the *Residential Tenancy Act (Act)*.

On August 02, 2018 the Tenant submitted evidence to the Residential Tenancy Branch. The Tenant stated that this evidence personally delivered to the Landlord's business office on August 03, 2018. The Building Manager acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

On July 26, 2018, July 30, 2018, and August 07, 2018 the Landlord submitted evidence to the Residential Tenancy Branch. The Building Manager stated that this evidence sent to the Tenant, via registered mail, on August 07, 2018. The Tenant acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The parties were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. The parties were advised of their legal obligation to speak the truth during these proceedings.

Preliminary Matter

Rule 2.2 of the Residential Tenancy Branch Rules of Procedure stipulate that the claim is limited to what is stated in the Application for Dispute Resolution. Rule 6.2 of the Residential Tenancy Branch Rules of Procedure authorizes me to amend an application to include an issue that is not included in the Application for Dispute Resolution.

At the hearing the Tenant applied to amend his application to include a claim to dispute a rent increase.

The application to amend the Application for Dispute Resolution to include a claim to dispute a rent increase was dismissed. I find that it would be entirely unfair to the Landlord to permit this amendment as it would be difficult, if not impossible, for the Landlord to respond to this claim at the hearing without prior notice of the claim.

Issue(s) to be Decided

Should the Tenant be granted more time to apply to cancel a Notice to End Tenancy and, if so, should the Notice to End Tenancy for Cause, served pursuant to section 47 of the *Residential Tenancy Act (Act)*, be set aside?

Is the Tenant entitled to compensation as a result of bed bugs?

Background and Evidence

The Landlord and the Tenant agree that the tenancy began on July 01, 2016. The Building Manager stated that the rent is due by the first day of each month. The Tenant stated that he does not know when rent is due.

The Landlord and the Tenant agree that a One Month Notice to End Tenancy for Cause was personally served to the Tenant on June 12, 2018, which declared that the Tenant must vacate the rental unit by July 31, 2018. The Notice to End Tenancy, which was submitted in evidence, declares that the Landlord wishes to end the tenancy because the tenant or a person permitted on the property by the tenant has seriously jeopardized the health or safety or lawful right of another occupant of the landlord.

The Tenant stated that on June 26, 2018 he filed his Application for Dispute Resolution, in which he applied to cancel the One Month Notice to End Tenancy. Residential Tenancy Branch records indicate the Tenant filed his Application for Dispute Resolution on June 25, 2018.

The Tenant stated that he did not file his Application for Dispute Resolution to cancel the One Month Notice to End Tenancy within ten days of receiving it because he did not read the Notice to End Tenancy carefully and he was not aware that he only had ten days to dispute the Notice. He stated that on July 25, 2018 he was told that he should dispute the Notice to End Tenancy as it may negatively impact his ability to obtain subsidized housing.

The Tenant has claimed compensation of \$780.00 because there were bedbugs in this rental unit. At the hearing the Tenant stated that he would like to increase the amount of his claim to \$1,560.00.

The Landlord and the Tenant agree that:

- the Tenant first reported bedbugs in February of 2017;
- the Tenant reported bedbugs again in March, July, and September of 2017;
- after each of those reports the Landlord arranged to have the unit treated for bedbugs by a pest control company;
- the Tenant reported bedbugs again in May of 2018; and
- the Landlord arranged to have the unit treated for bedbugs in July of 2018, but the Tenant would not agree to have his unit treated.

The Tenant stated that he is not convinced the pest control company was treating his unit properly, as he could not smell spray after the unit was treated. The Tenant stated that he would not agree to the bedbug treatment in July of 2018 because the Landlord informed him that he would be responsible for the cost of the treatment and he believed that he had found a successful method of treating the bedbugs.

Analysis

Section 47(1) of the *Act* authorizes a landlord to end a tenancy by giving notice to end the tenancy for a variety of reasons, one of which is if the tenant or a person permitted on the residential property by the tenant has seriously jeopardized the health or safety or a lawful right or interest of the landlord or another occupant. On the basis of the undisputed evidence I find that the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause, pursuant to section 47(1) of the *Act*.

Section 47(4) of the *Act* stipulates that a tenant may dispute a notice under this section by making an application for dispute resolution within 10 days after the date the tenant receives the notice. Regardless of whether the Tenant filed his Application for Dispute

Resolution on June 25, 2018, as Residential Tenancy Branch records reflect, or on June 26, 2018, as the Tenant contends, I find that the Tenant did not file the Application within 10 days of receiving it on June 12, 2018.

Section 47(5) of the *Act* stipulates that if a tenant who has received a notice under this section does not make an application for dispute resolution in accordance with section 47(4) of the *Act*, the tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the notice, and the tenant must vacate the rental unit by that date. As the Tenant did not dispute the Notice to End Tenancy in accordance with the timelines established by section 47(4) of the *Act*, I find that the Tenant is conclusively presumed to have accepted that the tenancy ends on the effective date of the Notice and that he must vacate the rental unit. I therefore dismiss the Tenant's application to cancel the One Month Notice to End Tenancy that is the subject of this dispute.

Section 66(1) of the *Act* authorizes me to extend the time limit for setting aside a Notice to End Tenancy only in exceptional circumstances. The word "exceptional" means that I am unable to extend this time limit for ordinary reasons. The word "exceptional" implies that the reason for failing to meet the legislated time lines is very strong and compelling. A typical example of an exceptional reason for not complying with the timelines established by legislation would be that the Tenant was hospitalized for an extended period after receiving the Notice.

I find that failing to read all of the information provided on the One Month Notice to End Tenancy and failing to understand the deadlines for disputing a Notice to End Tenancy are not strong and compelling reasons for failing to dispute the Notice to End Tenancy within 10 days of receiving it. I therefore dismiss the Tenant's application for more time to apply to set aside the Notice to End Tenancy.

As I have dismissed the Tenant's application to set aside the One Month Notice to End Tenancy and I am satisfied that the Notice to End Tenancy complies with section 51 of the *Act*, I must grant the Landlord an Order of Possession, pursuant to section 55(1) of the *Act*.

Section 32(1) of the *Act* requires Landlords to provide and maintain residential property in a state of decoration and repair that having regard to the age, character, and location of the rental unit, makes it suitable for occupation by a tenant. On the basis of the undisputed evidence I find that the Landlord had the rental unit treated for bedbugs by a pest control company shortly after receiving reports of the problem on four occasions in

2017. In my view, the Landlord's response to those reports was reasonable and responsible.

I find there is no evidence to show that the Landlord was responsible for the bedbug infestation. I am aware that bedbugs are a common problem in British Columbia and that they can easily be introduced into a residential complex even when a landlord makes every effort to maintain the complex in good repair. In the absence of evidence to show that this Landlord did not respond to a report of bedbugs in a timely manner or that there was an infestation within the complex that the Landlord did not diligently address, I cannot find that the Landlord is responsible for any damages that flow from the presence of bedbugs. I therefore dismiss the Tenant's claim for compensation for losses associated to bedbugs.

Conclusion

I grant the Landlord an Order of Possession that is effective on August 31, 2018. This Order may be served on the Tenant, filed with the Supreme Court of British Columbia, and enforced as an Order of that Court.

The Tenant's claim for compensation for losses associated to bedbugs is dismissed.

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 21, 2018

Residential Tenancy Branch