



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding COLUMBIA PROPERTY MANAGEMENT LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MT, CNC

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") to request more time to cancel a notice after the dispute period on the notice; and to cancel a One Month Notice to End Tenancy for Cause dated October 3, 2019 ("One Month Notice").

The Tenant, a representative for the Tenant, R.E.J. ("Representative"), and an agent for the Landlord, K.B. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Representative and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the Decision would be emailed to both Parties and any Orders

sent to the appropriate Party.

The Parties agreed that the date on which the Tenant applied for dispute resolution is not a concern to either. Accordingly, I find that this is not fatal to the Tenant's Application; I find that the Tenant responded to the One Month Notice sufficiently under the Act and that this is not an issue before me.

Issue(s) to be Decided

- Should the One Month Notice be Cancelled or Confirmed?
- Is the Landlord entitled to an Order of Possession?

Background and Evidence

The Parties agreed that the fixed term tenancy began on September 1, 2017, and ran to February 28, 2018, and that the tenancy then continued on a month-to-month basis. The Parties agreed that the monthly rent of \$715.00 is due on the first day of each month, and that the Tenant paid a security deposit of \$337.50 and no pet damage deposit.

The Parties agreed that the Landlord served the Tenant with a One Month Notice dated by emailing it to the Representative, rather than serving it on the Tenant, on October 3, 2019. This form of service was agreed to by the Parties, given the Tenant's health condition.

The One Month Notice was signed, dated, contained the rental unit's address, the effective vacancy date of November 30, 2019, and was in the approved form. The One Month Notice set out the grounds for ending the tenancy as being:

- 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 or the landlord,
 - put the Landlord's property at significant risk; and
- breached a material term of the tenancy agreement that was not corrected within a reasonable time after written notice to do so.

The Agent said that during the Tenant's entire residency, starting on April 3, 2018, and going forward, there have been six confirmed cases of bed bugs in the rental unit. The Agent said the Landlord's position is that remediation of adjacent suites is a huge financial burden. In addition, the Agent said that this is a 55+ building; she said other residents cannot prepare their units for the remediation very well, and having to go through this causes them emotional stress.

The Agent said they have conducted regular inspections every two months, and it has now been confirmed that the bed bugs originated in the Tenant's suite.

The Representative said: "We actually have submitted as evidence that it actually checked out in July after the treatment in May 2019. We funded a heat treatment, which was done on two other occasions. The Tenant has gone above and beyond, and in July the test was negative for bed bugs. They were found again in September and we recently treated it via the heat treatment, but the Landlord also did a treatment of their own."

The Representative said:

The biggest thing we are disputing is that these bugs have come from [the Tenant]. He has never had any issue with bed bugs in his previous buildings. We've spoken with [the pest control company] to get information, and to have them speak at this hearing, but since they have a contract with [the Landlord], they didn't want to speak.

We have been told that it is difficult to find the source of the bed bugs. Some of the evidence is that it is not a health or property risk, other than the piece that [the Agent] has talked about: stress. I agree.

[The Tenant] feels it's a building issue that he has to deal with. He had to buy a new bed for \$450.00 of his own money. We don't feel that he is the source of it. We don't have evidence to say how many treatments there have been elsewhere in the building.

The Agent said: "I know they have been found throughout the building, but there have been incidents where it was solely in his unit. It's hard to determine, but the correspondence emails with [the pest control company] have advised that the source has always been from [the Tenant's] unit." The Representative asked the Agent about these emails and the Agent was able to locate one invoice dated April 2, 2019, which

indicated that multiple units were checked and found to be all clear, except for the Tenant's rental unit. The Agent said: "They checked seven units, and all were clear, except for his. He was the only one with bed bugs."

The Agent said that the Tenant's neighbour has had bed bugs, and that the Tenant and the neighbour go into each other's apartments.

The Representative said:

We're disputing the reason to end the tenancy: 'seriously jeopardized and put the Landlord's property at significant risk.' This usually involves quite severe risk behaviours. I question that this is grounds for eviction in this case.

Also, I stress that our goal is to find [the Tenant] other housing. He doesn't do well with these types of situations. He has anxiety. Whether this continues or not, we'd be willing to fund the checks every couple of months. The timeline part is difficult, but we'll keep looking for another residence for [the Tenant].

The Parties discussed the possibility of a settlement; however, given the difficult housing situation in the Tenant's location and the certainty of getting alternate accommodation by an agreed upon vacancy date, the Representative was reluctant to commit to a deadline for the tenancy.

Analysis

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

When a landlord issues an eviction notice under Section 47 of the Act, they bear the responsibility in providing sufficient evidence to support the issuance of that notice.

I find that the Agent relied on one piece of evidence from April 2019 to establish that the bed bugs originated in the Tenant's unit. Further, the Agent acknowledged that the Tenant's neighbour has had bed bugs, too, and that these two people visit each other's rental units on a regular basis. I find it is just as likely that the neighbour is the source of the bed bugs as is the Tenant.

Based on the evidence before me, overall, I find on a balance of probabilities that the Landlord has not provided sufficient evidence to support the validity of the grounds set out on the One Month Notice. Therefore, I cancel the One Month Notice; it is invalid and of no force or effect. I find that the tenancy continues until ended in accordance with the Act.

Conclusion

The Tenant is successful in his Application to cancel the One Month Notice. I found that the Landlord did not provide sufficient evidence to prove the grounds listed on the One Month Notice on a balance of probabilities. The One Month Notice is cancelled and is of no force or effect. The tenancy continues until ended in accordance with the Act.

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: November 29, 2019

Residential Tenancy Branch