



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GLASSMAN INVESTMENTS
LTD. 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.

KY and VN appeared for the landlord in this hearing and were given full authority to do so by the landlord. The tenant AP appeared with the tenants' counsel JR. Both parties were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord confirmed receipt of the tenants' application for dispute resolution hearing package ("Application"). In accordance with section 89 of the *Act*, I find that the landlord was duly served copies of the tenants' application. All parties confirmed receipt of each other's evidentiary materials.

The tenants confirmed receipt of the 1 Month Notice dated October 24, 2019. Accordingly, I find that the 1 Month Notice was served to the tenants in accordance with section 88 of the *Act*.

At the hearing, the tenants confirmed that he had incorrectly applied to cancel a 1 Month Notice for End of Employment, but the tenants were served a 1 Month Notice for End of Tenancy for Cause. As neither party was opposed, the tenants' application was amended to reflect the proper form of Notice.

Issues

Should the landlord's 1 Month Notice be cancelled?

If not, is the landlord entitled to an Order of Possession?

Background and Evidence

This month-to-month tenancy began on October 1, 2014, with monthly rent currently set at \$1,266.00, payable on the first of every month. The tenants paid a security deposit in the amount of \$550.00, which the landlord still holds.

The landlord issued the notice to end tenancy on October 24, 2019 providing four grounds:

1. The tenants or a person permitted on the property by the tenants have seriously jeopardized the health or safety or lawful right of another occupant or the landlords;
2. The tenants or a person permitted on the property by the tenants have put the landlord's property at significant risk;
3. The tenants or a person permitted on the property by the tenant has significantly interfered with or unreasonably disturbed another occupant or the landlord;
4. The tenants or a person permitted on the property by the tenants have caused extraordinary damage to the unit/site or property/park.

The landlord is seeking the end of the tenancy for the following reasons. The landlord testified that the tenant failed to inform the landlord of a bed bug infestation that had spread to neighbouring units. The landlord testified that they only became aware of the issue when they were contacted by the affected neighbouring units.

Both parties confirmed that the tenants had called a pest control company to deal with the matter. The landlords also called their own pest control companies for treatment, and included the invoices and reports in their evidentiary materials. The tenants testified that they did so as they had suffered from an infestation 2 years ago, and were informed by the landlord that they would be responsible for treating any future infestations. The landlord disputes that the tenants were ever instructed to not inform or involve the landlords of any future infestations.

The landlord confirmed that the after several treatments, the bed bug activity is currently minimal as of the last report, but the landlord expressed concern that the bed bugs are an ongoing problem due to the tenants' lifestyle. The landlord testified that one "cannot see into the walls", and is concerned about the "company R keeps", as well as the tenants' behaviour which involves excessive clutter in the rental unit, and the collection of bottles and cans. The landlord included reports by the pest control companies, letters from neighbouring units, as well as photos. The report dated October 31, 2019 notes the following observations: "severe sanitation problems. Many cluttered areas. Food debris on floors and counters".

Counsel for the tenants argued that it was a common misconception that bed bugs were caused by filth. Counsel also responded that much of the observed clutter was a result of the preparation the tenants performed for the bed bug treatment due to the limited space of the rental unit. The tenants testified that they have ceased the collection of bottles and cans in consideration for their neighbours and the landlord, and that the bed bug activity is currently under control.

Analysis

Section 46 of the *Act* provides that upon receipt of a notice to end tenancy for cause the tenant may, within ten days, dispute the notice by filing an application for dispute resolution with the Residential Tenancy Branch. The tenants filed their application on November 1, 2019, eight days after receiving the 1 Month Notice. As the tenants filed their application within the required period, and having issued a notice to end this tenancy, the landlord has the burden of proving they have cause to end the tenancy on the grounds provided on the 1 Month Notice.

I have considered the evidence submitted, and the testimony of both parties. Although it was undisputed by both parties that a bed bug problem had originated from the tenants' rental unit and had spread to the neighbouring units, both parties confirmed that the bed bug activity at the time of the hearing was considered minimal and under control. The landlord's belief is that there is a possibility and likelihood that the bed bugs would return, or are simply dormant, especially considering the cluttered state of the tenants' rental unit and the lifestyle the tenants lead.

I find that the tenants had addressed these concerns of the landlord quite thoroughly. The tenants testified that they have ceased the collection of bottles and cans. They also provided an explanation for the cluttered state that was observed, which I find to be a reasonable one. Furthermore, I find the landlord's concerns about the possibility of a re-infestation and the tenants' lifestyle to be unsupported by expert evidence or testimony for this hearing.

The landlord also expressed concern about the tenants' failure to inform the landlord of the problem. I find that the tenants had provided a reasonable explanation for their actions, and that the tenants' actions actually demonstrate a pro-active attitude, rather than a neglectful one. I find the tenants' initiative shows a sense of responsibility and sense of ownership of the problem, as well as their desire to follow the landlord's directions. I find that the tenants' actions were a result of a misunderstanding, rather than due an intentional disregard for protocol or rules set by the landlord.

Unfortunately, bed bugs a problem in many residential properties. Attaching responsibility for infestations of this type is exceedingly difficult, especially to the extent that a tenancy should be terminated. I find that although the bed bug infestation may have originated in the tenants' rental unit, I am not satisfied that this was directly and solely due to the tenants' deliberate or negligent actions. I am also not satisfied that the tenants' actions have put the landlord or other occupants' property or health at risk, or that they had caused extraordinary damage to the extent that this tenancy should end. Although the infestation was disruptive to the lives of the landlord, other tenants, and the tenants themselves, I find that the tenants had taken steps to mitigate the situation by calling a pest control company, by accommodating the treatments, and by addressing the landlords' concerns about their lifestyle.

For all these reasons, I find that the landlord has not met the burden in establishing that this tenancy should end on the four grounds provided on the 1 Month Notice.

Under these circumstances, I am allowing the tenants' application to cancel the landlord's 1 Month Notice, and this tenancy is to continue until ended in accordance with the *Act*.

Conclusion

I allow the tenants' application, and the 1 Month Notice is cancelled. The 1 Month Notice of October 24, 2019 is of no force or effect. This 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: December 24, 2019

Residential Tenancy Branch