



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Panorama Inn and Suites
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, CNC, PSF

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. The Tenant applied for:

- an order cancelling a One Month Notice to End Tenancy for Cause, dated November 3, 2021;
- an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent; and
- an order for the Landlord to provide services or facilities required by the tenancy agreement or law.

Those in attendance were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The Tenant testified he served the Notice of Dispute Resolution Proceeding (NDRP) on the Landlord in person on November 16 or 17, 2021. The Landlord testified he received the Tenant's documents by mail, "a couple of months ago." As the Tenant's testimony on service was more specific than the Landlord's, and I believe the service of documents would have been more memorable for the Tenant than the Landlord, I find the Tenant served the Landlord in person on November 17, 2021, and deem the documents received by the Landlord on the same day. I find the Tenant served the Landlord in accordance with section 89 of the Act.

The Landlord testified he did not serve his responsive evidence on the Tenant. Therefore, I advised the parties I would not be considering the Landlord's evidence in my decision.

Preliminary Matters

As the Tenant's application referred to the rental unit being part of an "inn," at the beginning of the hearing I questioned the parties in order to determine whether I had jurisdiction to hear the matter. As both parties confirmed this was a long-term arrangement, not a vacation stay; that the Tenant had been living there for years; that the Tenant paid a security deposit; and that the Tenant had no other permanent address, I confirmed the Act applied to the tenancy, and continued with the hearing.

As both parties agreed to a minor spelling change in the name of the Respondent, I have amended the application accordingly; the cover page of this decision reflects the corrected name of the Respondent.

As, at the outset of the hearing, I confirmed with the parties that a 10 Day Notice had not been served on the Tenant, and that the Tenant had applied in error for an order to cancel a 10 Day Notice, I dismiss this part of the Tenant's application.

The RTB's Rules of Procedure 2.3 states:

2.3 Related issues Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As it is not related to the central issue of whether the tenancy will continue, I dismissed the Tenant's application for an order for the Landlord to provide services or facilities required by the tenancy agreement or law.

Issues to be Decided

- 1) Is the Tenant entitled to an order cancelling the One Month Notice?
- 2) If not, is the Landlord entitled to an order of possession?

Background and Evidence

The parties agreed on the following details of the tenancy. It began in the current unit in October of 2017; rent is \$825.00, due on the first of the month; and the Tenant paid a security deposit of \$400.00, which the Landlord still holds.

The Landlord testified he served the One Month Notice on the Tenant in person on November 4, 2021, which the Tenant confirmed. A copy of the One Month Notice was submitted as evidence. The Notice is signed and dated by the Landlord, gives the address of the rental unit, states the effective date, states the reasons for ending the tenancy, and is in the approved form. The One Month Notice indicates the tenancy is ending because the Tenant or a person permitted on the property by the Tenants has:

- significantly interfered with or unreasonably disturbed another occupant or the Landlord; and
- seriously jeopardized the health or safety or lawful right of another occupant of the Landlord.

The Details of Causes section of the One Month Notice states that the “Tenant is not cooperating with the remediation of Bed Bugs in his unit,” and describes that the Tenant was provided five days notice about the upcoming treatment requirements to prepare his unit, that the Tenant did not have his unit prepared in time for the scheduled treatment, and that the same thing happened a couple years ago when the Landlord was trying to treat for bedbugs.

The Landlord testified that the Tenant is preventing the Landlord from treating the Tenant’s unit for bedbugs. The Landlord submitted that as the Tenant requires a wheelchair, he is not physically capable of moving his belongings out of the unit in preparation for the treatment; however, the Tenant could have arranged assistance in order to have his unit prepared in time.

The Landlord testified that on October 28, 2021, he provided the Tenant notice that the unit would be treated for bedbugs on November 3, 2021 at 9:00 a.m., and provided the Tenant with written instructions on how to prepare his unit. The Landlord testified that on the same day, he told the Tenant to let him know if the Tenant required assistance, as the Landlord would have someone assist him.

The Landlord testified that the Tenant contacted the Landlord on November 2, 2021 at 4:00 p.m., the day before the scheduled treatment, and told the Landlord his unit was not prepared for the treatment.

The Landlord testified that the Tenant has similarly prevented bedbug treatment of his unit on two previous occasions.

The Landlord testified that when the property has a bedbug outbreak, they treat for it right away. The Landlord testified that the bedbugs from the Tenant's untreated unit are spreading to other units and preventing the Landlord from renting them out.

The Tenant testified that "they are not [his] bedbugs"; they were in the unit when he moved in. The Tenant testified that the first time the Landlord wanted to treat for bedbugs, the Tenant, with assistance, got his belongings out of the unit, allowing it to be treated.

The Tenant testified that for the November 3, 2021 bedbug treatment, he hired someone to assist him to prepare his unit, but that she stole from him. The Tenant testified that he tried to contact the Landlord by telephone over the weekend to let the Landlord know he required assistance. The Tenant said that each time he called the office, no one answered, and there was no voicemail.

The Landlord testified that as the office is open from 9:00 a.m. to 10:00 p.m. on weekends, the Tenant could have come by the office to let staff know he needed help. The Tenant said that as he had fallen and hurt his ribs, he "could not chase [the staff] down." The Tenant testified he reached the Landlord on November 2, 2021, and told him he needed assistance to prepare his unit, but nothing happened.

The Landlord and Tenant disagree on the number of times the Landlord wanted to treat the Tenant's unit for bedbugs. The Tenant testified that November 2021 was only the second time the Landlord wanted to treat his unit; the Landlord testified that November 2021 was the third time, and that the first time, as the Tenant's unit was not prepared, the pest control company did not treat it. The Tenant testified that no one had informed him about the first scheduled treatment.

The Landlord testified that the Tenant is also powering a device inside his unit by running an electrical cord from an outlet outside his unit, through his doorway. The Landlord testified that the Fire Department has indicated the arrangement is a fire hazard because the electrical cord becomes damaged as the door closes on it. The Landlord testified that the Fire Department has twice fined the Landlord \$500.00 for this bylaw violation. The Landlord testified that the first time, the Landlord paid the fine and warned the Tenant, but then the Tenant's refusal to stop this practice resulted in a second bylaw violation and fine for the Landlord.

The Tenant testified he runs the electrical cord through his doorway so as to operate a heater, because the door does not have proper weatherstripping, as has been the case

for the last three years. The Tenant acknowledged that the Landlord provided him a copy of the bylaw violation document regarding him running the cord through his doorway; the Tenant testified that the document was not signed or dated.

The Landlord testified that the Tenant has a dog and a cat, and that the Tenant allows his dog to run about the property unleashed, the dog defecates “everywhere on the property,” and the Tenant is not able to clean up after his dog.

The Landlord testified that the Tenant’s cat gets into the establishment’s laundry room through a vent, then cannot get out. The Landlord testified that as the cat had urinated on some laundry, the Landlord had to throw the laundry away. The Landlord said he must regularly check the laundry room and let the cat out.

The Tenant submitted that, as he is not able to, the Landlord needs to put up some chicken wire to prevent the cat from accessing the laundry room. The Tenant did not respond to the Landlord’s testimony regarding the dog feces about the property not being picked up.

The Tenant testified that he believes the Landlord wants to move him out in order to charge more rent; the Landlord testified that is not the case.

Analysis

Based on the parties’ testimony, I find the Landlord served the Tenant the One Month Notice on November 4, 2021, in accordance with section 88 of the Act, and that the Tenant received it on the same day.

I find the One Month Notice meets the form and content requirements of section 52 of the Act.

Section 47 of the Act states that a tenant receiving a One Month Notice may dispute it within 10 days after the date the tenant receives the Notice. As the Tenant received the Notice on November 4, 2021 and applied to dispute the Notice on November 12, 2021, I find the Tenant met the 10-day deadline.

Section 47 of the Act states that a landlord may end a tenancy if a tenant has:

- significantly interfered with or unreasonably disturbed another occupant or the Landlord; or

- seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

I accept the Landlord's testimony that the Tenant has prevented the treatment of bedbugs in his unit, and that the bedbugs have spread to neighbouring units, preventing the Landlord from renting out those units.

I acknowledge that the parties disagree on the number of times the Tenant has failed to prepare his rental unit in time for bedbug treatment, but find that both parties agree this has occurred at least one time. While I appreciate it is within the realm of possibility, I find it improbable that the Landlord failed to inform the Tenant the first time the Landlord sought to treat the Tenant's unit for bedbugs.

I accept the Tenant's testimony that he required assistance to prepare his unit for bedbug treatment, and that he is not able to make the necessary changes to prevent his cat from entering the laundry room.

I accept the Landlord's testimony that on October 28, 2021 he offered the Tenant assistance to prepare his unit, and I accept the Tenant's testimony that he fell, the person he hired to assist him stole from him, and that he had difficulty contacting the Landlord the weekend before the treatment to say that he required assistance.

The Tenant did not further explain what transpired with the person he had hired for assistance, or what other steps he took to get help or have someone visit the Landlord's office to inform staff he needed assistance.

I find that the Tenant was responsible for ensuring that his unit was ready to be treated for bedbugs.

I also find that the Tenant is responsible for ensuring that his pets do not negatively impact other occupants or the Landlord.

I accept the Tenant's testimony that he runs an electrical cord through his doorway to run a heater as the door does not have proper weatherstripping. I also accept the testimony of the Landlord that the Fire Department has twice indicated this is a fire hazard, and charged the Landlord \$500.00 for bylaw violation. I accept the testimony of the Landlord that after the first occurrence, they gave the Tenant a warning.

I find that by the Tenant preventing bedbug treatment of his unit, impacting the Landlord's ability to rent out other units; and the Tenant running an electrical cord through his doorway after being informed twice that the Fire Department deems this a fire hazard; and the Tenant not ensuring his dog's waste is being picked up from the property, the Tenant has significantly interfered with or unreasonably disturbed another occupant or the Landlord, and seriously jeopardized the health or safety or lawful right of another occupant or the Landlord.

Therefore, in accordance with section 47 of the Act, I find the Landlord is entitled to an order of possession.

The Landlord and Tenant have both testified that the Tenant is wheelchair bound, and requires assistance with some tasks. Therefore, rather than granting the Landlord an order of possession effective two days after service on the Tenant, I grant the Landlord an order of possession effective February 28, 2022, at 1:00 p.m.

Conclusion

The Tenant's application is dismissed; the One Month Notice is upheld.

The Landlord is granted an order of possession which will be effective February 28, 2022, at 1:00 p.m.

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 14, 2022

Residential Tenancy Branch