



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

Decision

Dispute Codes:

CNC

Introduction

This is an Application for Dispute Resolution by the tenant to cancel the One-Month Notice to End Tenancy for Cause dated January 26, 2009. Both parties appeared and gave affirmed testimony in turn. An advocate for the tenant also appeared..

The One-Month Notice to Notice to End Tenancy for Cause was submitted into evidence. Indicating that “ *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, or the landlord*” and “*put the landlord’s property at significant risk.*”

Issue(s) to be Decided

The tenant is disputing the notice and the issues to be determined based on the testimony and the evidence is:

- Whether the criteria to support a One-Month Notices to End Tenancy under section 47 of the *Residential Tenancy Act*, (the *Act*), has been established by the landlord or whether the notice should be cancelled on the basis that the evidence does not support the cause shown.

Burden of Proof: The burden of proof is on the landlord to establish that the notice was justified.

Background and Evidence

The tenant has been a resident in the complex for several years and pays subsidized rent in the amount of \$284.00 per month.

The Landlord testified that the notice to end tenancy was issued because of the tenant's failure to cooperate with the landlord's efforts to fumigate the unit for cockroaches and bedbugs. The landlord testified that repeated attempts have been made to treat the unit since May 2008 and that these efforts have been thwarted by the tenant's refusal to grant access or by the fact that the contractor has found that the tenant failed to prepare the unit for the fumigation. The landlord testified that the tenant's actions have placed the other residents at risk, caused neighbouring units to be unfairly subjected to repeated treatments for re-infestations and imposed extra costs on the landlord. A substantial amount of written evidence had been submitted by the landlord in support of the Notice. However, the tenant was not served with this evidence until the day before the hearing which does not comply with the Rules of Procedure..

In any case, the tenant acknowledged that the tenant did not permit the fumigation work to proceed on numerous occasions. The tenant testified that this was because of the tenant's inability to adequately prepare the unit due to serious health issues and the tenant's unawareness that assistance with the preparation task was available through support agencies. However, the tenant did obtain the necessary support and has now complied with the fumigation program. The tenant apologized for not cooperating in this manner in the past and made a commitment to fully cooperate in the future.

A mediated discussion ensued and the parties came to an agreement that the One-Month Notice to End Tenancy for Cause will be cancelled with the proviso that, should the tenant ever again fail to fully cooperate with any notifications to fumigate issued by the landlord in future, the landlord would be within its right to

issue a One-Month Notice for Cause and obtain an Order of Possession on that basis.

Accordingly, pursuant to the mutual agreement reached between these two parties, I find that the notice to end tenancy must be cancelled. I make a finding that if the tenant fails to comply with a notice to fumigate in future, the landlord would be justified in ending the tenancy with a One-Month Notice for Cause on that basis.

Conclusion

Based on the above, I hereby order that the One-Month Notice to End Tenancy dated January 26, 2009 be cancelled and of no force nor effect.

March 2009

Date of Decision

Dispute Resolution Officer