



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the tenant's application for compensation for damage or loss under the Act, regulations or tenancy agreement. Both parties appeared at the hearing and confirmed they had received the evidence served upon them by the other party. I proceeded to hear from both parties and gave the parties an opportunity to respond to the submissions of the other party.

Issues(s) to be Decided

Has the tenant established an entitlement to compensation for damage or loss under the Act, regulations or tenancy agreement?

Background and Evidence

I heard undisputed testimony that the tenancy commenced on February 1, 2009 and ended April 30, 2009. The monthly rent was \$800.00. The rental unit had a cockroach infestation. The landlord had pest control services attend several units on the property, including the rental unit, on February 10, 2009.

The tenant submitted that due to the cockroach infestation she incurred an additional cleaning cost of \$100.00 charged by the movers and had to abandoned a desk, bed, loveseat, leather chair and tables at the residential property for fear of bringing the cockroaches to her new accommodation.

The landlord submitted that the tenant was informed of the cockroach infestation before the tenant moved in. The tenant submitted she found out about the cockroaches two days before moving in but the tenancy agreement had already been signed and it was too late to find another place. The move-in inspection report does not make any notation of the presence of bugs.

The tenant explained she replaced the abandoned furniture with furniture obtained by way of gift or borrowed and paid \$50.00 for a used loveseat. The tenant was willing to settle this matter for no less than \$500.00.

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The landlord agreed to pay the cleaning cost charged by the movers but refused to compensate the tenant for furniture as the landlord was not satisfied the tenant had abandoned furniture due to the cockroaches other than some end tables; the tenant had not demonstrated financial loss other than the mover's cleaning charge and the tenant did not inform the landlord that cockroaches continued to be a problem after treatment. The landlord submitted that the pest control instruction document given to the tenant informed the tenant to notify the landlord if pests were observed after treatment. The tenant acknowledged seeing a couple of cockroaches after the pest treatment and did not inform the landlord.

Facilitation of a mutual agreement to settle this dispute was attempted during the hearing but the parties could not reach an agreement.

Analysis

As the parties were informed during the hearing, since the parties did not reach a settlement, I have made a decision to resolve this hearing based on the requirements of the Act.

Under the Act, the landlord has an obligation to repair and maintain a property so that it is fit for occupation as living occupation. There is no dispute that the landlord was aware of a cockroach infestation before the tenancy commenced but did not have the unit treated until February 10, 2009. However, I also heard that the tenant observed cockroaches in the rental unit after the pest control treatment was performed and did not inform the landlord of these observations. This is a critical finding in this case as if the tenant had notified the landlord upon observing more cockroaches, the landlord would have been required to take further action to treat the cockroach infestation. By not informing the landlord of the continued infestation it is reasonable the landlord was not aware that cockroaches remained in the unit and further treatment was required.

Section 7(2) of the Act provides that any party that seeks compensation from another party must do whatever is reasonable to mitigate the damage or loss that occurs as a result of the other party's non-compliance with the Act. I find it reasonable that a tenant that observes pests in the rental unit after a pest control treatment would notify the landlord that the pest infestation remained. By not informing the landlord of cockroaches in the unit after the pest control treatment, I find the tenant failed to mitigate the spread of cockroaches to her furniture. Therefore, pursuant to the requirement of section 7(2), I deny the tenant's claim for compensation for loss of furniture.



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As the landlord agreed to compensate the tenant for the mover's cleaning costs, I award the tenant \$100.00 for cleaning costs. To ensure payment, the tenant is provided a Monetary Order to serve upon the landlord.

Conclusion

The tenant is awarded \$100.00 for cleaning costs charged by the movers and the remainder of the tenant's claims are dismissed without leave to reapply. The tenant is provided a Monetary Order in the amount of \$100.00 to serve upon the landlord.

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, 2009.

Dispute Resolution Officer