

## **DECISION AND REASONS**

### **Dispute Codes: MN OC RR**

This hearing dealt with an application by the tenant for a monetary order, an order that the landlord comply with the Act, an order that the landlord make repairs and an order allowing the tenant to reduce the rent for repairs. Both parties attended the hearing and had an opportunity to be heard.

At the outset of the hearing we dealt with the issue of the tenant's evidence. The file contained no documentary or photographic evidence in support of the claim. Mr. L said that he submitted extensive documentation to both the RTB and the landlord on Thursday, September 10, 2009. Mr. W advised that he had not received any evidence and there was no indication in the file that the Residential Tenancy Branch had received the evidence either. Furthermore, even if the evidence had been submitted on September 10<sup>th</sup> the Rules of Procedure require that all evidence be received by all parties by at least five days before the hearing – not including the first and last days. In other words, Mr. L's evidence, if submitted at all, was late. As a result, the hearing proceeded on the basis of the sworn testimony of the parties only.

The facts before me are as follows. This tenancy began on December 15, 2008. The rent is \$288.00 due in advance on the first day of each month. The residential property is occupied primarily by individuals who are on disability income. The residential property has a fairly serious bed bug infestation which is at the root of the tenant's claim. Many of the residents bring old furniture and clothing into the building unaware that there are bed bugs or bed bug eggs on the material. This has resulted in the outbreak. Further, given the fact that bed bugs can hibernate for up to eight months, the landlord believes that the bugs will be a continuing problem.

Mr. L testified that his unit is completely infested with bed bugs and that the landlord is not doing enough to quell the problem. The landlord disputes the tenant's claim and says not only that the tenant is overstating the problem but that regular steps are also being taken to deal with the problem. Mr. M testified that Mr. L's unit was sprayed on March 20, March 27, July 22, August 10 and September 14 and is scheduled to be sprayed again on September 18. Mr. L did not dispute these dates. Further, Mr. W

testified that Mr. L is not following treatment protocol and allows his unit to become very cluttered and messy thus exacerbating the problem in his unit.

#### MONETARY CLAIM / RENT REDUCTION

The tenant has made a monetary claim of \$419.25 as compensation for his loss of quiet enjoyment due to the bed bugs.

As a general principle, when making a claim of this nature, the party making the claim bears the burden of proof both as to liability and quantum. In the present case, given the fact that the tenant agrees that the landlord has repeatedly sprayed the rental unit, I am not satisfied that the tenant has proved the landlord's liability. In my view, the landlord is taking all necessary steps to deal with a problem that has become widespread in the Lower Mainland. Given this finding it is not necessary for me to consider the issue of quantum and I dismiss the tenant's application for a monetary order.

The tenant has also requested a rent reduction as compensation for the landlord's failure to provide a rental unit that is free of bugs. For the same reasons stated above, I dismiss the tenant's application for a rent reduction.

#### ORDER TO COMPLY / MAKE REPAIRS

The tenant has requested an order that the landlord comply with applicable health and safety standards and that the landlord make repairs to the rental unit.

As already stated above, I find that the landlord is taking all reasonable steps to eradicate or at least control the bed bug problem in the residential property and on this basis I dismiss the tenant's application for an order that the landlord comply.

And finally, it is not clear from the tenant's application precisely what repairs he is seeking but Mr. L did mention at the hearing that he wants a sweep put on the door to

his unit to help stop the flow of bugs from the hallway carpet into his room. At the hearing the landlord agreed to provide the tenant with a sweep.

Dated September 15, 2009.

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