

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the filing fee from the Landlord for the cost of this application.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the *Act*, served personally by the Tenant to the Landlord on approximately December 18, 2009. The Landlord confirmed receipt of the hearing package.

The Landlord and Tenant appeared, acknowledged receipt of evidence submitted by the other, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Tenant entitled to a Monetary Order under section 67 of the *Residential Tenancy Act*?

Background and Evidence

The undisputed testimony was the written month to month tenancy agreement began on September 1, 2009. Rent was payable on the first of each month in the amount of \$800.00 and the Tenant paid a security deposit of \$400.00 on August 26, 2009. The Tenant provided the Landlord with one month's notice on November 30, 2009, to end the tenancy effective December 31, 2009. The Tenant provided the Landlord with his forwarding address on November 30, 2009, and the Landlord has returned the Tenant's full security deposit.

The Tenant testified that after he had occupied the rental unit for approximately four to six weeks he noticed that he was getting bitten and after a couple of weeks had gone by he decided to talk to his friends about the bites at which time they determined that the Tenant had bed bug bites. The Tenant referred to his evidence, which included photos of bed bugs, bites, and copies of his telephone records. The Tenant argued that he

notified his Landlord of the presence of bedbugs on November 12, 2009 as supported by his telephone records, and the letter he wrote to the Landlord's head office on November 14, 2009. The Tenant stated that he has never received a reply from the Landlord to his November 14, 2009 letter. The Tenant confirmed that the Landlord arranged for a pest control company to attend and treat his rental unit on November 17, 2009 and things were good for about one week, after which he began to get bitten again. The Tenant argued that this is when he called the Landlord's head office and informed them he was moving. The Tenant advised that the Landlord told him they would bring in the pest control company again and he replied by telling the Landlord they could do what they chose but that he was still leaving.

The Tenant stated that he was not prepared to stay in the rental unit and his new rental unit would not allow him to bring in his furniture because his previous unit had been treated for bed bugs. The Tenant argued that he had to dispose of his mattress, box spring, couch, and lazy boy chair. The Tenant confirmed that none of these articles have been replaced and he is seeking a monetary amount of \$3,000.00 to replace these items.

The Tenant testified that he had no proof that the presence of bed bugs in his suite were a result of the Landlord's actions nor could he provide proof that the bed bugs were present and lying dormant at the onset of his tenancy. The Tenant argued that when he first informed the Landlord of his problem she told him that she was suffering from the same problem having been bitten recently in her suite.

The Landlord testified that she has been employed with this employer since November 2009 and she confirmed she received the Tenant's letter of November 14, 2009 and that she passed it onto her head office. The Landlord also confirmed that she had a conversation with the Tenant about herself being bitten, however she later found out that her skin problem was not a result of bed bug bites.

The Landlord confirmed the pest control company attended the Tenant's suite on November 17, 2009 as supported by her evidence. The Landlord stated that she was advised by the pest control company that the regulations prevent them from treating mattresses, furniture, clothing, and they must wait four or five weeks before repeating the treatment.

The Landlord argued they chose not to have the second treatment done as the Tenant was scheduled to vacate the unit the following week. The Landlord stated that after the Tenant vacated the unit the Landlord had the carpets steam cleaned, the entire suite

painted, and they have received no complaints of bed bugs from the tenant who has occupied the unit since February 1, 2010.

Analysis

All of the testimony and documentary evidence was carefully considered.

The Tenant is of the firm belief that the bed bug infestation was established in the rental unit when he moved in on September 1, 2009. He commented on the Landlord's reference to similar bites that the Landlord had suffered.

Given the ability of bed bugs to jump from one article to another and to travel with unsuspecting hosts, I cannot determine with any certainty whether the bed bugs were resident at the beginning of the tenancy or they came later. In addition, the Landlord stated that the current tenant who has occupied the unit since February 1, 2010, has made no mention of bed bugs.

In determining the Tenant's claim I must consider if both parties upheld their requirements under the Act, Regulation, and tenancy agreement. The Tenant is required to pay rent while the Landlord is required to provide the Tenant with quiet enjoyment of the unit. If the Tenant is deprived of the full quiet enjoyment through no fault of their own, the Tenant may be entitled to damages, even when there has been no negligence on the part of the Landlord. The parties are also required under section 7 of the Act to ensure they do whatever is reasonable to minimize the damage or loss.

I find the amount claimed by the Tenant not to be supported by the evidence. Although the Landlord was initially compliant with section 32 of the Act with their quick response in having a pest control company begin treatment, the Landlord failed to complete their obligation by not following through with the second pest control treatment five weeks later, which resulted in the Tenant suffering one additional week of loss to his quiet enjoyment. Therefore, I find the Tenant is entitled to nominal damages in the amount of \$200.00.

As the Tenant has been partially successful with his claim I hereby award recovery of the \$50.00 filing fee.

Conclusion

I HEREBY FIND in favor of the Tenant's monetary claim. A copy of the Tenant's decision will be accompanied by a Monetary Order for **\$250.00**. The order must be served on the respondent Landlord and is enforceable through the Provincial Court and enforced as an order of that Court.

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: May 20, 2010.

Dispute Resolution Officer