



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, MNSD, ERP, 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 *Residential Tenancy Act* (Act), Regulation or tenancy agreement, an Order for the landlord to return her security deposit and to recover the cost of the filing fee. At the outset of the hearing the tenant stated she has moved from the rental unit and therefore withdraws her application for an Order for the landlord to carry out emergency repairs.

Service of the hearing documents, by the tenant to the landlord, was done in accordance with section 89 of the Act; they were given in person to the landlord on July 15, 2010 by the tenant.

The tenant appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the tenant entitled to recover her security deposit?

Background and Evidence

The tenant testifies that this month to month tenancy started on May 02, 2010 and ended on July 31, 2010. The tenant paid a monthly rent of \$600.00 which was due on the first of each month. The tenant paid a security deposit of \$300.00 sometime in the middle of May, 2010.

The tenant testifies that after approximately one month of her tenancy she noticed bites to her body and found her unit to be infested with bedbugs. The tenant testifies that the room next door to hers had a serious infestation of bedbugs which the landlord did not treat professionally. Instead the tenant claims the landlord sprayed the room with gas which she believes then caused the bedbugs to migrate to her room. The tenant states she was told by another tenant who also acted as a volunteer manager at the Motor Inn that this was the treatment the landlord carried out.

The tenant testifies that she informed the landlord and showed him the bites on her body. She claims she offered to work with the landlord if he took appropriate action to eliminate the bedbugs. The tenant states the landlord asked her to move to another room but on inspection she found this room to be fifthly and suspected it also may have bedbugs. She claims the landlord offered to clean this other room up so she could move into it and that he had inspected it and had found no bedbugs present. However, the tenant testifies that the landlord did not clean this room up and she could not move into it.

The tenant testifies that she prepared her room for treatment for bedbugs, she bought rubber sealing boxes for her clothes and had all her clothes and her daughters' professional cleaned to eradicate any bedbugs before sealing them in boxes and to protect them from further contamination.

The tenant testifies her daughter came to stay for a few nights and she was also badly bitten with bedbugs. The tenant again notified the landlord and he refused to do any treatments on the rooms. The tenant states she then refused to pay her rent for July, 2010 until the landlord carried out this treatment. The tenant then offered to pay half the rent for July, 2010 if the

Residential Tenancy Branch
Ministry of Housing and Social Development

landlord would treat her room. The landlord failed to carry out any treatments'. The tenant claims she asked the landlord to give her a 10 Day Notice to End Tenancy and she then moved out in accordance with this Notice.

The tenant seeks to recover \$600.00 in compensation equivalent to June, 2010 rent; she seeks \$150.00 for the costs of laundering her and her daughters' clothes and purchasing rubber boxes and she seeks the return of her security deposit of \$300.00.

Analysis

I have applied a test used for damage or loss claims to determine if the claimant has met the burden of proof in this matter:

- Proof that the damage or loss exists
- Proof that this damage or loss happened solely because of the actions or neglect of the respondent in violation of the *Act* or agreement
- Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
- Proof that the claimant followed S. 7(2) of the *Act* by taking steps to mitigate or minimize the loss or damage.

In this instance the burden of proof is on the claimant to prove the existence of the damage or loss and that it stemmed directly from a violation of the agreement or contravention of the *Act* on the part of the respondent. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

I find that the tenants claim for compensation or money owed does not meet all of the components of the above test. The tenant has not submitted any evidence to support her claim of \$1,100.00. The tenant has provided no evidence of the bedbugs or proof from a medical

Residential Tenancy Branch
Ministry of Housing and Social Development

person concerning the bedbug bites. The tenant has provided no evidence of the costs incurred in having her clothes laundered or for the purchase of the rubber boxes. Consequently, I find the tenant has not met the burden of proof in this matter.

With regard to the tenants claim for the return of her security deposit; Section 38 of the Act states:

38 (1) Except as provided in subsection (3) or (4) (a), within 15 days after the later of

(a) the date the tenancy ends, and

(b) the date the landlord receives the tenant's forwarding address in writing,

the landlord must do one of the following:

(c) repay, as provided in subsection (8), any security deposit or pet damage deposit to the tenant with interest calculated in accordance with the regulations;

(d) make an application for dispute resolution claiming against the security deposit or pet damage deposit.

I find the tenant has not yet given the landlord her forwarding address in writing as specified under section 38. Consequently, the tenants' application to recover her security deposit is dismissed with leave to reapply in the event the landlord does not return it as specified under section 38 or apply to keep it within 15 days of receiving her forwarding address in writing.

As the tenant has been unsuccessful with her claim I find she is not entitled to recover her \$50.00 filing fee from the landlord.



Dispute Resolution Services

Page: 5

Residential Tenancy Branch
Ministry of Housing and Social Development

Conclusion

The Tenant's application is dismissed **with leave to reapply**.

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: September 07, 2010.

Dispute Resolution Officer