



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC

Introduction

This was an application by the tenant for a monetary order for compensation for damage or loss. The hearing was conducted by conference call. The named parties called in and participated in the hearing. The tenant's application was joined with seven other applications scheduled to be heard at the same time as this application. I made the determination that the joined applications should not be heard at the same time as this application and I advised the parties in attendance other than the applicants in this proceeding that their applications would be rescheduled and each would be heard separately. I then proceeded to hear this application.

Issue(s) to be Decided

Are the tenants entitled to a monetary order and if so, in what amount?

Background and Evidence

The tenancy began on March 1, 2010. Monthly rent is \$800.00.

In this application the tenant claimed a monetary order in the amount of \$11,025.00 said to be for damages due to a bedbug infestation. The claim includes the cost to replace furniture. The tenant made a previous application for a monetary order filed on April 8, 2010. In the previous application she claimed compensation for loss of quiet enjoyment for the months of March and April, 2010. In her July 28, 2010 decision the Dispute Resolution Officer awarded the tenant the sum of \$800.00 in compensation. She made the following finding:

Based on the Tenant's testimony and documentary evidence, and in the absence of any evidence to the contrary from the Landlord, I find that the Landlord did not comply with Section 32(1) of the Act. I further find that the Landlord omitted to advise the Tenant of the bedbug problem in the rental property and therefore fundamentally misrepresented the condition of the rental unit at the time the parties entered into the tenancy agreement.

The tenant testified that the rental unit was not sprayed for bedbugs before she moved in and soon after moving in she found bedbugs in her unit. The rental unit was sprayed after she discovered bedbugs in the unit. It was sprayed in June and once more in July or August.

The tenant's position in this hearing, as it was in the previous hearing is that the landlord should have told her that there was a bedbug problem in the building but did not and the tenant was misled as to the condition of the unit. The tenant said that the landlord had a duty to warn her of the problem; had she been told that there were bedbugs in the building she would not have agreed to rent the unit and would not have moved into the building. It is the tenant's position that the landlord is responsible for the tenant's losses, including loss related to furniture that had to be thrown out because it became infested with bedbugs. The tenant has also made a further claim for loss of quiet enjoyment. The tenant submitted that the landlord's treatment was inadequate; she said that her unit was not treated for bedbugs before she moved in. The tenant said the former resident manager who was fired by the landlord: "for being too honest" told her that the unit was not sprayed before she occupied it. The tenant submitted that the landlord changed to a new pest control company because the old firm was not doing an adequate job.

When this application was filed on September 2, 2010 the tenant claimed payment of the sum of \$9,825.00. In December she sought to amend the application to claim the sum of \$11,025.00.

At the hearing the tenant said that she was not claiming for a number of items of furniture that were included in her original claim. The tenant claimed that she should be compensated for a bed, a sofa and items of bedroom furniture that the tenant had to dispose of because they were infested with bedbugs.

The tenant claimed for a bed valued at \$1,358.00 and for bedroom furniture claimed to have been purchased for \$3,180.00. The tenant submitted a photocopy of a receipt dated "August 18 - 82" which I take to be August 18, 1982. The receipt is made to "cash" and refers to a bedroom suite consisting of dresser & hutch 2 stands (hi-boy) and 4 drawer chest. Included in the purchased goods was a "dining room buffet & hutch with crooked doors". The tenant did not provide a receipt for the bed. She said that she purchased it on sale in 2009, but the full price was \$1,358.00 plus taxes and delivery charges. She did not provide a receipt for her sofa. She said she purchased it over

four years ago for \$799.00 plus taxes and delivery charges. The tenant made a further claim for loss of quiet enjoyment in the amount of \$800.00.

The Landlord's representatives claimed that the tenant had acted improperly by asking residents to sign a petition and the landlord has received complaints from other residents who were disturbed by the tenant's behaviour. The landlord said these residents would not submit a written complaint out of fear of retaliation.

With respect to the bedbug problem the landlord's representatives acknowledged that the landlord did not inform the tenant before she agreed to rent that there were bedbugs in the unit. The landlord said that since the landlord purchased the rental property in 2003 it has implemented regular pest control and it is the landlord's policy that all rental units are treated for pests on turnover. The landlord noted that bedbugs are an issue in the lower mainland. They are brought to buildings by residents and visitors. The landlord treats the rental units but it does not disclose to prospective tenants that there have been bedbugs in the rental property because that would make it more difficult to rent vacant units.

The landlord disputed the tenant's compensation claim; it took the position that the claim was dealt with in the July 28, 2010 dispute resolution proceeding. The landlord submitted that the tenant has not provided adequate proof of loss in any event.

Analysis and Conclusion

The tenant testified that had she known of the existence of bedbugs in the rental property she would not have rented the unit. I would not go so far as to say that the landlord's omission to advise the tenant of a bedbug problem in the rental property amounts to a fundamental misrepresentation of the condition of the rental unit, but in my view the landlord has a duty to advise a prospective tenant that there have been occurrences of bedbugs in the property along with the steps taken to treat them. The tenant will then make an informed decision as to whether or not to rent or offer to rent the unit. I find that the landlord is liable to compensate the tenants for their loss occasioned by the landlord's failure to disclose the bedbug problem. The furniture claim did not form part of the claim filed by the tenant in April, 2010 because the loss had not yet occurred. I find that the applicants are entitled to compensation for losses due to the bedbug infestation. The tenant has provided little in the way of evidence to prove the losses claimed. With respect to the claim for bedroom furniture in the amount of

\$3,180.00, I note that not all of the furniture was bedroom furniture and the furniture in question was purchased more than 28 years ago. There are no photographs of any of the items and on the evidence presented I am unable to ascribe any value to the furniture. The claim for the bedroom furniture is denied. The tenant testified that she had to throw out her bed because it could not be treated to ensure the bedbugs were eradicated. The tenant said the bed was purchased on sale, but its list price was \$1,358.00. I accept the tenant's evidence that she had to dispose of her bed due to bedbugs. In the absence of documentary and photographic evidence to establish its condition or value, I award the tenant the sum of \$600.00 for the loss of her bed. With respect to the sofa, on the evidence it was purchased for \$799.00 and it was more than four years old. I allow the tenant's claim for the sofa in the amount of \$200.00. The other claims for furnishings were abandoned by the tenant at the hearing and they are dismissed without leave to reapply.

The tenant did not provide specifics of any loss of quiet enjoyment due to bedbugs since the award for compensation for the months of March and April. The tenant has complained of disturbances caused by other occupants of the building arguing and fighting. The tenant made mention of other disturbances and of concerns about vandalism and a lack of security in the building. These claims were not canvassed at the hearing which was concerned with the tenant's bedbug complaints. I find that they are unrelated to the issues with respect to bedbugs which was the original claim brought by the tenant. I apply section 2.3 of the Residential Tenancy Branch Rules of Procedure and dismiss these unrelated claims, for compensation for loss of quiet enjoyment. The tenant may make a further claim for loss of quiet enjoyment if there are continuing disturbances.

I have awarded the tenant the sum of \$800.00 and I grant the tenant an order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court. No filing fee was paid and none is awarded.

Dated: January 14, 2011.
