



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes ERP, OLC, MNDC

Introduction

This hearing dealt with the Tenants' application for Orders for emergency repairs, for monetary compensation for damage or loss under the Residential Tenancy Act (the "Act"), regulations or tenancy agreement and for an order requiring the Landlord to comply with the Act.

The Tenants and Landlord's Agents appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

1. Have the Tenants established that Orders to the Landlord are required for emergency repairs?
2. Have the Tenants established an entitlement to compensation for damage or loss under the Act, regulations or tenancy agreement?
3. Have the Tenants established an entitlement to an order requiring the Landlords to comply with the Act?

Background and Evidence

This one year fixed term tenancy began on November 15, 2010, monthly rent is \$1,100.00 and a security deposit of \$550.00 was paid on November 15, 2010.

The Tenants claim that they are entitled to a monetary order in the amount of \$5,000.00, and that they are entitled to an order requiring the Landlord to make emergency repairs and to comply with the Act due to a rat/rodent infestation that has not been corrected by the Landlord.

In support of their application, I heard testimony from the male Tenant that prior to entering into the tenancy, he asked pointed questions to the Landlord's Agents

concerning whether or not there were rodent problems in the rental unit. The Tenant submitted that the Landlord's Agent stated that there were none and that the rental units were being renovated due to the Landlord's desire to have better tenants in the building. The Tenant stated that it was important to them that they have a clean rental unit, free from rodents, due to the concerns of their four year old special needs daughter.

The Tenant testified that shortly after the beginning of the tenancy, the Tenants noticed evidence of rodents and notified the Landlord of the problem on January 1, 2011.

The Tenant testified that the problem was not corrected, and that he was compelled to send another letter to the Landlord, which resulted in the maintenance worker installing wire mesh around the baseboard heaters and spraying foam and ammonia. The Tenant testified that this did not correct the problem and that he bought rodent traps from a local home improvement store.

The Tenant testified and supplied photographic evidence that they did in fact have rats present in the rental unit and that he was able to catch some of them with the bait traps.

The Tenant submitted that he advised the Landlord again of the infestation and he was told another work order to the maintenance department would be issued. The Tenant further submitted that on February 26, another maintenance worker came by and removed a dead rodent. However, the Tenant stated that the maintenance worker would not clean up the rodent mess, including feces and urine.

The Tenant stated that he was informed an exterminator would come to the rental unit sometime in March to look at the problem, but during the intervening time, the Tenant repeatedly saw rodents and reported them, which resulted in more foam and ammonia spraying.

The Tenant submits that the exterminator came with traps, but that the problem still persists. The Tenant also stated that he was advised by the Landlord's agent that the rental complex had received 500 traps and that the Tenants would be receiving 10 of them.

The Tenant testified that his daughter suffers nightmares, will not sleep by herself and requires assistance in going to the washroom as a result of the rodent infestation.

In response, the Landlord's Agent submitted that the Landlord has been responsive to the Tenants' requests by having the maintenance crew place wire mesh around the openings, by filling in the openings and by spraying.

The Landlord submitted a statement from the extermination company, which was dated March 14, 2011, which I note stated that bait was placed in the rental unit, which was one of eight in the twelve unit building receiving bait.

The Landlord's agent did not deny the presence of the rodents, but stated the Landlord was continually attempting to correct the problem, including offering the Tenants a three bedroom unit in another building when one becomes available.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Only the evidence and testimony relevant to the issues and findings in this matter are described in this Decision.

Section 32 of the Act requires a landlord to provide and maintain a residential property in a state that complies with the health, safety and housing standards required by law and having regard for the age, character and location of the rental unit, make it suitable for occupation by a tenant.

Section 33 requires the landlord to make emergency repairs where they are urgent, necessary for the health or safety of anyone or for the preservation or use of the residential property.

On a balance of probabilities, I find the Tenants have established that they have been enduring a rodent infestation of a serious nature since at least January 1, 2011, have notified the Landlord on a continuing basis of the problem and that the rodents are still present.

I accept that the Landlord has taken some steps in remedying the rodent infestation, but I find that these steps have resulted in insufficient action necessary to rid the rental unit of rodents. I find this insufficient response has caused the Tenants to suffer a loss of use and enjoyment of his rental unit. I accept that the rodent infestation diminished the value of the tenancy by \$300.00 per month and I **award** the Tenants compensation of **\$300.00** per month for loss of enjoyment of the rental unit starting January 1, 2011, through the day of the hearing, in the amount of **\$900.00** (\$300.00 per month for January through March 2011).

I provide the Tenants with a Monetary Order for the total amount of \$900.00 to serve upon the Landlord. The Tenants are authorized to satisfy this order by withholding rent from a subsequent month's rent payable.

I direct the Landlord to hire a licensed, professional pest control company, no later than April 15, 2011, to correct the rodent infestation and to issue a written report when the process has been completed and that the rental unit is free from rodents.

Until the completion of the extermination, I grant the Tenants a continuing rent abatement of \$300.00 per month and I further authorize the Tenants to reduce future monthly rent payable by \$300.00 until such time as the licensed, professional company has issued its final report certifying that the process of extermination of the rodents is complete.

Upon receipt of the written report verifying completion of the extermination of the rodents, the Tenants will be obligated to resume payment of the full monthly rent starting the month following receipt of the written report. Example: if the Landlord supplies the report on May 2, 2011, the Tenants' rent for May is reduced by \$300.00, but the Tenants would have to pay the full amount of rent payable for June 2011.

If the Tenants are not satisfied with the extermination being complete and continues to withhold rent, the Landlord is required to file an application for dispute resolution to prove to the Residential Tenancy Branch that it has complied with this Decision.

Due to the hearing being on the last day of March, 2011, if the Tenants paid rent in full as required on April 1, 2011, I direct the Landlord to return \$300.00 of the rent to the Tenants.

Conclusion

The Tenants were successful with this application.

The Landlord has been ORDERED to hire a licensed, professional pest control company no later than April 15, 2011, to remedy the rodent infestation in the Tenants' rental unit.

The Tenants have been provided a Monetary Order in the amount of \$900.00 for the loss of use and enjoyment of the rental unit for the months of January through March 2011, which may be satisfied by withholding rent from a subsequent month's rent payable.

The Tenants are authorized to reduce future monthly rent by \$300.00 until such time the pest control company has completed the extermination process and verified that the rental unit is free from rodents.

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: April 01, 2011.

Residential Tenancy Branch