



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

Decision

Dispute Codes: MNDC, OLC, PSF, RR, FF

Introduction

This hearing dealt with 2 applications, 1 by each of 2 tenants, for a monetary order as compensation for damage or loss under the Act, regulation or tenancy agreement / an order instructing the landlord to comply with the Act, regulation or tenancy agreement / an order instructing the landlord to provide services or facilities required by law / permission to reduce rent for repairs, services or facilities agreed upon but not provided / and in the case of only 1 of the tenants – recovery of the filing fee.

All parties attended or were represented at the hearing.

Issues to be decided

- Whether the tenants are entitled to any or all of the above under the Act, regulation or tenancy agreement

Background and Evidence

“SHB” has been a tenant since 2004, and her current monthly rent is \$697.00.

“GML” has been a tenant since 2008, and her current monthly rent is \$835.00.

The dispute arises out of the nature of the landlord’s response to separate reports made by both tenants of suspected bedbugs in their respective units. Tenant “GML” made the first report to the landlord on February 10, 2011, and took the initiative herself of contacting a pest control company, “PD.” A representative of “PD” picked up a sample of the suspected bedbugs from tenant “GML” later that same day. The landlord’s initial response to tenant “GML’s” report was to provide her with a can of RAID on February 14, 2011.

On February 17, 2011, tenant “SHB” informed the landlord that she too had found what appeared to be bedbugs in her unit.

On February 25, 2011, the landlord contacted the landlord's choice of a pest control company, "O," who confirmed that they would send a representative to the building on February 28, 2011.

On February 28, 2011, a representative from "O" attended the building, looked at the sample collected, and confirmed that they were bedbugs.

On March 1, 2011, a representative from "O" attended the building and conducted an inspection of several units, including the 2 subject units. "O" recommended that a canine be brought into the building to do a "sniffer inspection" the next day, March 2, 2011, and the landlord agreed. In the result, the canine confirmed there were positive traces of bedbugs in the 2 subject units.

On March 4, 2011, "O" sprayed the 2 units, and the landlord provided both tenants with mattress covers at no cost to either tenant.

On March 21, 2011, "O" returned to complete a second spraying in the 2 units.

Despite 2 sprayings, on March 31, 2011 tenant "GML" reported bedbug bites to the landlord who, in turn, contacted "O."

On April 4, 2011, tenant "GML" was given 24 hours notice that "O's" canine would be brought into her unit once again.

On April 5, 2011, the canine confirmed the existence of bedbugs in tenant "GML's" unit and on April 8, 2011, the unit was sprayed a third time.

Thereafter, on April 21, 2011, tenant "GML" found that the bedbugs continued to exist in her unit. Following the long Easter weekend, the landlord contacted "O" whose representative picked up a sample of the bedbugs on April 26, 2011 for assessment. Instructions were given to tenant "GML" specific to preparing her unit for yet another spraying, but using a different product from previous sprayings.

On May 6, 2011, tenant "GML" reported additional bedbug bites and, following the landlord's contact with "O," a representative completed another spraying of her unit later that same day.

On May 17, 2011, tenant "GML" reported yet more bedbug bites and on May 18, 2011, the landlord again contacted "O." Subsequently, on May 26, 2011, a representative from "O" attended the building with the canine. As a result, a steam treatment was recommended for certain furnishings in tenant "GML's" unit, and this was undertaken on May 31, 2011.

Presently, it is understood that successful eradication of the bedbugs cannot yet be confirmed in tenant "GML's" unit.

Both tenants seek compensation pursuant, in part, to the alleged failure of the landlord to respond in a timely, appropriate manner to the 2 reports of suspected bedbugs. Further, the tenants seek miscellaneous compensation for costs arising from and including, but not necessarily limited to, periods of time when they were required to be absent from their units on account of the spraying but had to eat, compensation for laundry and replacement of certain household items, and compensation for restricted use and enjoyment of their units during the overall period of infestation.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca/

The particular attention of the parties is drawn to section 32 of the Act which speaks to **Landlord and tenant obligations to repair and maintain**, and provides in part as follows:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

The parties are also referred to Residential Tenancy Policy Guideline #16 which addresses "Claims in Damages," and provides in part as follows:

Where a landlord and tenant enter into a tenancy agreement, each is expected to perform his/her part of the bargain with the other party regardless of the circumstances. A tenant is expected to pay rent. A landlord is expected to provide the premises as agreed to. If the tenant does not pay all or part of the rent, the landlord is entitled to damages. If, on the other hand, the tenant is deprived of the use of all or a part of the premises through no fault of his or her

own, the tenant may be entitled to damages, even where there has been no negligence on the part of the landlord. Compensation would be in the form of an abatement of rent or a monetary award for the portion of the premises or property affected.

In addition to other damages a dispute resolution officer may award aggravated damages. These damages are an award, or an augmentation of an award, of compensatory damages for non-pecuniary losses. (Losses of property, money and services are considered “pecuniary” losses. Intangible losses for physical inconvenience and discomfort, pain and suffering, grief, humiliation, loss of self-confidence, loss of amenities, mental distress, etc. are considered “non-pecuniary” losses.) Aggravated damages are designed to compensate the person wronged, for aggravation to the injury caused by the wrongdoer’s willful or reckless indifferent behavior. They are measured by the wronged person’s suffering.

Based on the documentary evidence and the testimony of the parties, I find on a balance of probabilities that the tenants have each established entitlement to compensation. These entitlements arise variously out of what I am persuaded was a delay in the landlord’s initiative in contacting a pest control company, following separate reports from the tenants of suspected bedbugs. Specifically, there was a delay of 15 days after tenant “GML’s” report on February 10, 2011 and a delay of 8 days after tenant “SHB’s” report on February 17, 2011 before the landlord responded by contacting “O” on February 25, 2011. Further to the above, the tenants allege that the initial attitudinal nature of the landlord’s response was somewhat dismissive.

While the number of treatments required to eradicate bedbugs in any given set of circumstances is uncertain, I am satisfied in general that the sooner that inspection and appropriate treatment are undertaken after a report of bedbugs is made, the sooner the problem is likely to be effectively addressed. Further, I find that as the physical and emotional wellbeing of tenants are at issue, tenants rely on a timely, appropriate response by a landlord.

There does not appear to be any dispute that after the landlord undertook in earnest to respond to the reports, the landlord has continued to respond to tenants’ concerns in a timely, appropriate manner by contacting the pest control company and following up with the recommendations made. The landlord has also incurred all service costs arising from the interventions by the pest control company.

As for specific compensation, I find as follows:

Tenant "GML" has established entitlement to one-time / all inclusive compensation to the present, of \$676.25, which is comprised of 75% of 1 month's rent of \$626.25 (\$835.00 x 75%) plus the \$50.00 filing fee (\$626.25 + \$50.00). I order that this amount be withheld from the next regular payment of monthly rent.

Tenant "SHB" has established entitlement to one-time / all inclusive compensation to the present, of \$348.50, which is equivalent to one half of 1 month's rent at the current level (\$697.00 x 50%). I order that this amount be withheld from the next regular payment of monthly rent.

Conclusion

I hereby ORDER that both tenants may withhold specific amounts from their next regular payment of monthly rent, as set out above.

In view of the landlord's currently active and supportive response to the tenants' concerns in this matter, I find there is presently no requirement that orders instructing the landlord be issued. This aspect of both applications is therefore hereby dismissed.

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*.

DATE: June 9, 2011

Residential Tenancy Branch