



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC OLC 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, to have the Landlord ordered to comply with the Act, and to recover the cost of the filing fee from the Landlord for 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 Corporate Landlord's office on May 3, 2012. Based on the Tenant's submission I find the Landlord has been served notice of this proceeding, in accordance with the Act.

The Tenant appeared at the teleconference hearing and gave affirmed testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me. No one appeared on behalf of the Landlord, despite the Landlord being served notice of this proceeding in accordance with the Act.

Issue(s) to be Decided

1. Who is the corporate Landlord and who is the Resident Manager acting as Agent for the Landlord?
2. Is the applicant a Tenant?
3. If so, is the Tenant entitled to a Monetary Order and Orders to have the Landlord treat her unit for bed bugs?

Background and Evidence

The Tenant affirmed that she moved into the rental unit on August 12, 2011 as a tenant to the existing lease. The rental unit is a 3 bedroom apartment that had been rented by three previous tenants, one of which vacated the unit in June 2011. Rent is payable on the first of each month in the amount of \$1,290.00 which she pays \$430.00 as her share.

When she moved into the unit she met with the resident manager who told her she would be added to the lease the next day. When she attempted to contact him the next day she was informed that he was no longer working for the Corporate Landlord and that a new Resident Manager, W. T. was taking over. As a result of the management change over she never received a copy of the lease and does not believe she was

added to the original tenancy agreement; however, W.T. knew she was a tenant from the start of his employment he dealt directly with her for service issues and access to the rental unit.

Upon further discussion the Tenant confirmed the Corporate Landlord is the property management company, as named in the style of cause on page one of this decision, and the Resident Manager, W.T. is the person she named as landlord in her application for dispute resolution.

The Tenant advised that on approximately March 5th, 2012 she noticed she had been bitten. Then by March 9, 2012 she suspected that she had been bitten by bed bugs so she contacted her Landlord, W.T. and informed him. When he failed to take action she hired her own pest control company who agreed to come in and conduct an inspection but told her that the Landlord dealt with a different pest control company. This inspector confirmed the presence of bed bugs and suggested that she purchase a mattress cover to prevent the bed bugs from ruining her mattress. She purchased the protective cover and completed all of the cleaning she was told to do by the inspector and it seemed to stop the problem for awhile.

When the biting started again she called the Landlord again. The Tenant stated that the Landlord waited three weeks before he took any action about her complaint of bed bugs. She said the Landlord and pest control technician showed up at her rental unit without proper notice at 8:30 a.m. near the end of March 2012. She was just getting out of bed and had to get ready to get off to school so she refused the Landlord access.

The Tenant said that they attempted to give their notice to end their tenancy effective at the end of April 2012 however they were six days late in providing the notice so they gave notice to end the tenancy effective May 31, 2012.

Then on April 10, 2012 she got up in the middle of the night and found a bed bug on her leg. She called the Landlord the next morning and around mid April 2012, the Landlord called while she was at school to say he was at the unit with the pest control company requesting access for an inspection. She wanted this matter resolved so she said they could enter. She never heard anything back from the pest control company or the Landlord so she does not know what they found on that inspection.

April 20, 2012 the Landlord called her to advise he was at her unit again with the pest control company requesting entry. This attendance was without proper notice again so she told them they could not enter because she wanted to be there to speak with the pest control company.

On April 25, 2012 she sent the property manager an e-mail, a copy was provided in her evidence, where she complained about W.L. and the lack of treatment for her bed bug issue. It was after this date that she was provided 24 hour notice that the pest control company would be coming to treat her unit on April 27, 2012. The pest control technician told her that they had recently treated the rental unit above her room and

they told her that the Landlord did not treat the infestation properly as they should treat the units beside and below the infected unit. They also told her they were considering doing the heat treatment and upon further inspection they determined they would have to do the spray treatment and that she would require two sprayings, first to kill the live bed bugs and the second a few weeks later to kill the newly hatched bugs.

The Tenant stated that she has not resided in the rental unit since April 28, 2012, leaving all but some clothing in the unit awaiting treatment. She has since provided notice to end her tenancy effective May 31, 2012, and she suspects the Landlord is waiting until they move out to complete the second spray treatment. She needs to ensure the treatment is completed before she has to move her possessions out.

The Tenant made reference to her evidence which included, among other things, copies of e-mails between her and the property manager, a copy of an estimate for a new bed frame and mattress and proof of cleaning costs to launder her clothing on May 2, 2012 for \$72.60. She wished to amend her application to seek recovery of her rent of \$430.00 for May 2012 as she has not been able to stay there at all, \$75.00 for the mattress cover, and \$72.60 for her laundry costs. She is also requesting storage costs for her bed as she will not be able to move it into her new unit for up to a year after it is treated.

Analysis

Given the evidence before me, in the absence of any evidence from the Landlords who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Tenant and corroborated by her evidence.

Upon careful consideration of the aforementioned, I find the Landlord to be the corporate Landlord and W.T. to be Agent for the Landlord. The style of cause has been amended to include the corporate Landlord's name, pursuant to section 64 (3)(c) of the Act which stipulates the director may amend an application for dispute resolution or permit an application for dispute resolution to be amended.

Based on the submissions of the Tenant I find her to be a Tenant who has occupied the rental unit since August 2011, has paid her monthly rent of \$430.00 and was to be added to the lease by the previous resident manager, prior to his dismissal from the Landlord.

Section 32 of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that complies with health, safety, and housing standards required by law and makes it suitable for occupation by a tenant; while the *Residential Tenancy Policy Guideline # 1* provides that pest control is the responsibility of the landlord.

The evidence supports the Tenant became aware of an infestation of bed bugs in her bedroom sometime in March 2012 and informed her resident manager as early as

March 9, 2012. The Landlord attended the rental unit on several occasions, without proper notice, and failed to arrange for the first treatment of the Tenant's unit until May 4, 2012. The Tenant alleged the bedbugs traveled from an upstairs unit that had been infested just prior to her unit.

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 in an upper unit or came inside the Tenant's unit from an exterior source. That being said, this does not dismiss the Landlord from the requirements to ensure proper pest control is provided to all units in a rental building.

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.

Although the Landlord complied with section 32 of the Act with their scheduling of the initial treatment by the pest control company, I find the Landlord failed to act in a timely manner and failed to complete their obligation by not following through with the second pest control treatment a few weeks later, which resulted in the Tenant suffering a loss of quiet enjoyment of the unit for the entire month of May 2012 and a second laundering of her clothing. Therefore, I find the Tenant is entitled to damages in the amount of **\$502.60** which is comprised of \$430.00 for May's rent plus \$72.60 in cleaning costs.

I find that the Landlord is still responsible to ensure the Tenant's possessions inside the rental unit have the second pest control treatment, prior to the end of this tenancy which is scheduled for May 31, 2012.

The Tenant has sought recovery of the purchase of a mattress cover, additional laundry costs, a new bed and frame, and an estimated cost to put her bed into storage. In considering these items claimed I find there to be insufficient evidence to prove the amounts claimed or to prove the Landlord is responsible for these amounts. Accordingly I dismiss this portion of the Tenant's claim.

The Tenant has primarily been successful with her claim; therefore I award recovery of the **\$50.00** filing fee.

Conclusion

The Tenant has been issued a Monetary Order in the amount of **\$552.60** (\$502.60 + \$50.00). This award is legally binding and must be served upon the Landlord.

The Landlord is HEREBY ORDERED to schedule the second pest control treatment to be applied no later than **May 31, 2012**. If the Landlord fails to comply with this Order, the Tenant will be at liberty to seek additional monetary compensation.

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 28, 2012.

Residential Tenancy Branch