



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RR, FF

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover their filing fee for this application from the landlords pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlords' representative PD (the landlord) confirmed that the tenants handed him copies of the tenants' dispute resolution hearing package on September 10, 2012. I am satisfied that the tenants served this package and their written evidence package to the landlords in accordance with the *Act*.

Issues(s) to be Decided

Are the tenants entitled to reduce their rent for their loss of quiet enjoyment of their rental unit? Are the tenants entitled to a monetary award for losses arising out of this tenancy? Are the tenants entitled to recover their filing fee for this application from the landlords?

Background and Evidence

This tenancy commenced as a one-year fixed term tenancy on June 22, 2010. At the expiration of the initial term, the tenancy continued as a periodic tenancy. Monthly rent is currently set at \$950.00, payable in advance on the first of each month. The landlords continue to hold the tenants' \$475.00 pet damage deposit and \$475.00 security deposit paid on June 22, 2010.

The tenants' application for a monetary award of \$712.50 was to compensate them for their loss of quiet enjoyment of their rental unit. They maintained that they are entitled to compensation because of the disruption caused by the landlords' unsuccessful attempts to rid their rental unit of bedbugs. The parties agreed that the landlords

allowed the tenants to pay only one-half of their monthly rent (i.e., \$475.00) for May 2012 to compensate them for their loss of quiet enjoyment as a result of pesticide spraying for bed bugs that occurred a number of times in March 2012.

The tenants entered into written evidence a copy of their July 18, 2012 letter to the landlords which outlined their request that they be allowed to reduce their August 2012 rent by \$712.50, the amount claimed in their application for dispute resolution. This letter read in part as follows.

...This WHOLE process took 1 month to do! Just like before. I found that it was brought to your attention that to deal with the bedbugs when you 1st found out back in Nov, 2011 and waited until Mar, 2012 to take action, that the WHOLE building be heat treated to more effectively rid the building of these pests, but you had declined and we are doing this a 2nd time (which is really 4 times to treat). Due to not being able to live quietly, comfortably and safely in our home we are entitled to compensation; and due to the inconvenience we've had to endure again, where we did not get 3 weeks off of rent last time (at time did agree to half off of rent for that month) I am asking for the FULL 3 weeks this time; this doesn't include the cost of laundering everything AGAIN; So we are asking for a total of \$712.50 be deducted off our Aug, 2012 rent...

(as in original)

At the hearing, the female tenant (the tenant) confirmed that the \$712.50 monetary request was to rebate the tenants for the entire rent that they paid for three weeks (i.e., a pro-rated weekly rent of \$237.50 @ 3 weeks = \$712.50). She testified that the tenants had to stay with family members on four occasions while the most recent series of pesticide treatments occurred. In their July 18, 2012 letter, the tenants also maintained that they incurred costs of \$61.00 to wash and dry all of the items specified in the instructions provided by the pest control company retained by the landlords.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, a Dispute Resolution Officer may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

Section 7(1) of the *Act* establishes that “if a landlord or tenant does not comply with this *Act*, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.” Section 28 of the *Act* entitles a tenant to quiet enjoyment of the rental unit and “freedom from unreasonable disturbance.” Section 32(1) of the *Act* requires a landlord to provide and maintain residential property in a state of repair that “complies with the health, safety and housing standards required by law.”

Unlike many disputes that arise between landlords and tenants over bedbug infestations, the tenants recognize that the landlords have been taking considerable measures to eradicate bedbugs from this rental property. In fact, it is the extent of the measures and the disruption caused to the tenants by these measures that has fuelled the tenants’ application for dispute resolution.

The tenants have maintained that the pesticide treatment program undertaken thus far in this rental building have been inadequate. The tenants have not questioned the landlord’s claim that the landlords have hired qualified pest control experts who have conducted multiple inspections, sometimes using a specially trained canine, and treated their rental unit and a number of others in this building frequently over the past months. Rather, the tenants have asserted that the type of treatment purchased by the landlords has been insufficient to eliminate bedbugs from this rental property and their rental unit. They claimed that had the landlords decided to purchase what is apparently a more expensive heat treatment of the entire building, the tenants would not be forced to experience the additional rounds of inspections, treatments, moving belongings away from the walls and the general disruption caused by this lingering problem.

The landlord testified that the landlords chose one of a range of approved pesticide treatment approaches to deal with the bedbug infestation in this rental property. While bedbugs have been eliminated in some parts of this building that were previously infested, he said that bedbugs have been difficult to remove from the tenants’ rental unit and three others in their side of this rental building. He said that the landlords considered the heat treatment option referred to by the tenants, but rejected this more costly approach to pest control primarily because there was no guarantee that such an approach would be successful in eliminating this pest control problem.

Based on the evidence presented by the parties, I find that the landlords have not been negligent in their duty to comply with section 32(1) of the *Act*. While their efforts to date have not been as successful as the landlords and tenants in this building would have liked, there is ample evidence that the landlords have earnestly attempted to rid the rental building of the bedbug problem. Unfortunately, bedbugs are a common and

growing problem for housing in this province and in other locations across the world. There is no guarantee that approved methods of bedbug treatment will be successful. I find that the lack of success achieved by one set of approved pesticide treatment does not entitle the tenants to a monetary award for the landlords' failure to select the treatment approach of the tenants' choosing. As bedbugs are very persistent in relocating elsewhere in a multiple unit residential property, there is no certainty that the treatment regimen identified by the tenants would have had any more effectiveness in eliminating this problem. I find that the tenants have not demonstrated their entitlement to a reduction in rent for their loss of quiet enjoyment of the premises.

In reaching my decision, I am also not convinced that the tenants have demonstrated that they would be entitled to refrain from being responsible for any rent for a three week period. Moving belongings to the middle of rooms and cleaning and bagging a series of their possessions does not equate to entitlement for a total elimination of rent for a three week period.

I do accept the tenants' undisputed evidence that they did incur some costs in washing and drying items specified in the recent treatment list provided to them by the pest control company retained by the landlords. Although the tenants did not supply receipts or invoices for these expenses, I accept their undisputed written evidence that the washing and drying cost them a total of \$61.00. For this reason, I allow the tenants a monetary award of \$61.00 to compensate them for their actual losses arising out of this tenancy. To implement this decision, I order the tenants to deduct \$61.00 from their next scheduled monthly rental payment to the landlords.

As the tenants have had very limited success in their application, I find that they are responsible for their filing fee.

Conclusion

I allow the tenants a monetary award of \$61.00 for losses they incurred arising out of this tenancy. I order the tenants to deduct \$61.00 from their next scheduled monthly rental payment to the landlords. This deduction is only to take effect for one month. Their monthly rent reverts to its normal amount subject to the *Act* in the month following this one-time rent reduction.

I dismiss the remainder of the tenants' application for dispute resolution without 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: October 12, 2012

Residential Tenancy Branch