



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking an order requiring the landlord to make repairs.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter all parties gave affirmed testimony, were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure; however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to make certain repairs?

Background and Evidence

This tenancy began on December 1, 1997 and the rental unit is one of 15 units on a 3 floor building.

Through her application, the tenant requests an order that the landlord be required to treat the entire residential property for bedbugs, that the treatment include a thermal treatment, that the landlord repeat the treatments again in 10-14 days and that the

landlord forward to her any treatment recommendations made by the pest control companies, government departments or any other party.

The tenant's advocate also requested that I order the landlord to "coercively act" to make all tenants cooperate with the bedbugs treatment.

In support of her application, the tenants' relevant evidence included a written summary of her claim, copies of five tenant's request for repairs, with bedbugs listed as the problem, beginning in June 2011 and the latest one being on August 26, 2012, a bedbug invoice dated October 9, 2012, listing that the unit was inspected and ample evidence found, and a treatment guideline.

The tenant submitted that she notified the landlord of the presence of bedbugs as early as June 6, 2011; however, the landlord did not administer the first treatment until August 12, 2011.

The tenant agreed that the landlord had the rental unit chemically treated 4 times between August 12, 2011 and December 7, 2011. The rental unit was thermally treated on December 21, 2011. The tenant agreed that on all but one occasion the nearby units were also treated.

The tenant agreed that in the first 6 months after the thermal treatment, there was little evidence of bedbugs, with evidence of a strong infestation reappearing in July 2012. In support of this contention, the tenant said she captured the bedbugs and keeps them in a pill bottle, alive.

The tenant gave the landlord a written request for treatment of bedbugs on August 16, 2012; however the landlord did not have an inspection until October 9, 2012, according to the tenant.

The tenant also submitted that she has followed the advice of the pest control technician treating for bedbugs by having all her belongings in first plastic bags, then plastic boxes, away from the wall.

In response, the landlord's relevant evidence included the tenancy agreement, 6 invoices and reports from the bedbug pest control company, an invoice and report from a company applying a thermal heat treatment for bedbugs, and a letter from the tenant, dated August 14, 2012, complaining to the landlord that she was concerned another bedbug infestation was occurring, caused from adjoining units.

The landlord also submitted a letter from a co-owner of the bedbug pest control company, which stated that the cluttered condition of the tenant's rental unit prevented effective treatment.

The landlord stated that they are very responsive to complaints from tenants about bedbugs, as shown by the number of treatments by the invoices.

The landlord further submitted that when first informed by the tenant that there was a bedbug problem, they immediately contacted the bedbug pest control company, which treated the rental unit a number of times in September and October 2011.

When the tenant again complained of bedbugs in December 2011, the landlord hired a company for a thermal heat treatment of the rental unit, as there was a concern that a conventional spray-type treatment would be ineffective due to the boxes in the tenant's rental unit.

The landlord said that he did not hear from the tenant again after the December 2011 thermal heat treatment until the letter from the tenant dated August 14, 2012. The landlord said that after receipt of the letter, he spoke with another of the tenant's advocates, twice, and determined that no further action was necessary.

The landlord submitted that it was not until receiving the tenant's application he realized there may still be an issue with bedbugs in the rental unit, at which time he again had the bedbug pest control company attend the rental unit in October, with a report that no bedbugs were seen. Additionally the report said that the rental unit had "too much stuff stacked in large piles-making unit hard to treat."

The landlord contended that the main problem with regard to treatment was the cluttered condition of the tenant's rental unit, which prevented proper treatment and which allowed for re-infestation. The landlord said that the tenant refused to cooperate in disposing of her clutter and mentioned that the tenant's purchases at various thrift shops contributed to the bedbug presence in the building.

Analysis

Based on the relevant oral and written evidence and on a balance of probabilities, I find that the tenant's Application must be dismissed.

Section 32 of the *Act* provides that a landlord must provide and maintain a residential property in a state of decoration and repair that complies with health, safety and

housing standards required by law and is suitable for occupation by a tenant when considering the age, character and location of the rental unit.

In the circumstances before me, I find that the tenant's rental unit at times did have bedbugs as reported by the tenant to the landlord. The tenant contends that in order for any bedbug treatment to be effective, that all units in the entire residential property must be treated simultaneously with thermal heat. I reject this assertion as there is no evidence submitted by the tenant to support this argument.

As to the tenant's request for remedy under the Act, such as ordering the landlord to make repairs, it is upon the tenant to show that the landlord was negligent in addressing the bed bug infestation. Negligence is the failure to exercise the degree of care considered reasonable under the circumstances, resulting in an unintended injury to another party. Accordingly, I have considered all of the evidence before me to determine whether the tenant has shown that the landlord acted unreasonably in treating the tenant's rental unit for bed bugs.

In the circumstances before me I am not persuaded that the landlord was negligent as there is no evidence before me that the landlord failed to adhere to health, safety or housing standards required by law. There was no evidence before me of any orders issued by local health authorities, in relation to inadequate pest control measures or any other concerns that placed the landlord in breach of this standard.

I find that bed bugs were acknowledged by the landlord, that the landlord took reasonable steps to address the problem by contacting the bedbug pest control company and immediately provided 4 consecutive treatments in a two month period. Following that, at great expense, the landlord hired a company for a thermal heat treatment in December 2011, which by all accounts was successful as the tenant did not again report a bedbug issue to the landlord until August 2012.

I find that once the tenant notified the landlord in August 2012 of another bedbug incident, the landlord communicated with the tenant's advocate, who was representing the tenant at the time. I find the landlord believed the problem was addressed.

When the landlord became aware that the tenant still complained of the bedbug problem through her application, the landlord hired the pest control company once again, who detected no bedbugs.

I am also persuaded by the findings of the pest control company that the tenant's lifestyle contributes to the lack of an effective treatment.

Therefore, taking into account the evidence before me, I find that the tenant has failed to prove her claim for an order requiring the landlord to make necessary repairs.

I do, however, find that there was a possible lack of communication by the landlord to the tenant of the pest control company's comments and recommendations regarding the state of the tenant's rental unit. I therefore order that from here out the landlord share all reports given to the landlord by the pest control company with regard to the treatments of the tenant's rental unit so that the tenant is well informed of any recommendations.

Conclusion

Due to the above, I dismiss the tenant's application, without leave to reapply.

I order the landlord to give the tenant any reports by the pest control company with regard to treatment for her rental unit.

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* and is being mailed to both the applicant and the respondent.

Dated: October 31, 2012.

Residential Tenancy Branch