

DECISION

Dispute Codes CNC, MNDC

Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy issued for cause and a monetary order request for money owed or compensation for damage or loss.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing and evidence package, I am satisfied that both parties were properly served with the notice and any submitted evidence.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties agreed to mutually end the tenancy on November 30, 2012 at or before 1:00 pm and that the Landlord shall receive an order of possession.

The above particulars comprise full and final settlement of all aspects of the dispute arising from this application for both parties.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background, Evidence and Analysis

This Tenancy began on October 1, 2011 on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$525.00 payable on the 1st of each month and a security deposit of \$262.50 was paid.

Both parties agreed that a 1 month notice to end tenancy issued for cause dated September 28, 2012 was served on the Tenant by posting it on the rental unit door on the same date. The notice shows an effective date of October 31, 2012 and that there were two reasons for cause chosen. 1) Tenant or a person permitted on the property by the Tenant has put the Landlord's property at significant risk. 2) Tenant has caused extraordinary damage to the unit/site or property/park.

Both parties agreed that the Tenant notified the Landlord about a pest/beg bug problem and that Treatment was performed as stated in the submitted a letter dated October 18, 2012 by the Pest Control Company, Busy Bee Spray Services which outlines the work performed and the inspection taken. The Letter states that after inspection that it was determined that the infestation was present for a minimum of 4 to 8 months prior to being reported. The Bed Bug Service was done on August 14, 2012 and again on August 30, 2012. The Tenant has provided a letter from Busy Bee Spray Services which confirm the letter submitted by the Landlord. The Tenant has also provided an invoice from his previous Landlords stating that entire security deposit was returned with no issues.

The Tenant seeks a monetary order for \$65.00 which consists of \$20.00 for the replacement of his bedframe, \$40.00 for a \$20.00 per night charge for two nights staying at his friends place as stipulated on the letter from D.Green during the fumigations. The Tenant also seeks \$5.00 for the replacement of a pillow. The Tenant has not provided any receipts/invoices other then the letter from D.Green.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The Landlord disputes the Tenant's claims that the bed bugs were present through the negligence of the Landlord. The Landlord has made reference to the condition inspection report for the move-in completed on October 1, 2011. The Landlord claims that the cause is as a result of the Tenant's lifestyle and points to the Tenant's photographs as an explanation. There is no dispute that bed bugs exists as both

parties have agreed on this point. The Tenant has made the claim for damages and the responsibility of claim lies on the Tenant. I note that the letter written by the Tenant's friend charging him \$40.00 for two nights show a discrepancy on the dates that he stayed. Both parties agreed that the fumigation services were performed August 14 and again on August 30th. The letter provided by the Tenant states that he stayed on August 20 and 30th. As the Tenant has failed to provide sufficient evidence to satisfy me that the bed bugs were as a result of the Landlord's negligence, his claims fails. I prefer the evidence of the Landlord over that of the Tenant. The Tenant's application is dismissed.

Conclusion

The Landlord is granted an order of possession by mutual consent for November 30, 2012.

The Tenant's monetary claim is 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*.

Dated: November 02, 2012.

Residential Tenancy Branch