



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlords for the cost of this application.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The tenant provided documentary evidence to the Residential Tenancy Branch. The tenant testifies that the landlord was served this same evidence package by registered mail on August 28, 2012 in advance of this hearing; the landlord testifies he did not receive the tenant's evidence. The tenant was permitted to provide documentary evidence after the hearing had concluded to the landlord and the Dispute Resolution Officer. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agree that this tenancy started on June 01, 2011. Rent for this unit was agreed at \$500.00 per month from June to October and \$1,000.00 per month from November to

April. Rent was due on the first day of each month in advance. The parties also agree that this was a fixed term tenancy for one year ending on June 01, 2012.

The tenant testifies that on April 10, 2012 the tenant found a lot of mice in the rental unit. The tenant testifies that there were mouse droppings everywhere including in her kitchen cupboards, food and drawers. The tenant testifies that she notified the landlord and was told to put out mouse traps. The tenant testifies that she did purchase and put out 10 mouse traps and caught three mice at that time.

The tenant testifies that this is a fourplex and she went to a neighbours unit and found mouse droppings in their unit. The tenant testifies that she packed some items and moved out while the mouse problem was dealt with. The tenant testifies that she continued to correspond with the landlord by e-mail and spoke to a restoration company who advised that an exterminator should be called in to all four units to resolve the mouse problem. The tenant testifies that she informed the landlord of this and advised that he should call in an exterminator by April 17, 2012. The tenant testifies that the landlord would not organise an exterminator and when the tenant returned to the unit on April 27, 2012 the tenant found two more dead mice in the traps and notified the landlord that the problem has not been dealt with.

The tenant testifies that as the landlord did not treat the problem successfully and would not send in an exterminator instead of just a neighbour, the landlord did not comply with the *Act* in providing a clean and sanitary environment for the tenant to live in. The tenant therefore seeks to recover three weeks rent paid for April of \$750.00 in compensation for the period of time the tenant could not live in the rental unit. The tenant testifies she was forced to vacate the rental unit on April 29, 2012 due to the landlord's inaction in dealing with the mouse problem successfully. The tenant has provided e-mail correspondence between herself and the landlord in evidence.

The tenant testifies that she spent the sum of \$61.95 to purchase mouse traps and poison along with steel wool and spray foam to seal any visible mouse holes. The tenant seeks to recover this from the landlord and has provided a receipt for these items in evidence.

The landlord disputes the tenants claim. The landlord agrees that the tenant did notify the landlord by e-mail of the mice and the following day the landlord e-mailed a neighbour indicating that the tenant had found some mice and could that neighbour go in and set some traps. The landlord testifies that he thought the mouse traps would get rid of the mice after a few days and if that did not work then he would call an exterminator. The landlord refers to an e-mail he sent the tenant about this. The landlord disputes that there were hoards of mice on April 10, 2012 as there did not appear to be any the day before.

The landlord testifies that lots of the properties have mice and the landlord suggests the tenant did not deal with the problem quickly enough. The landlord testifies that he lives out of province and relied on a neighbour to deal with this as the tenant was so upset. The landlord testifies that by April 20, 2012 the mouse problem was under control and the landlord sent an e-mail to the tenant informing the tenant that the landlord had arranged for a cleaner to go to the tenants unit to get rid of the mice droppings. The landlord testifies that he had also asked the neighbour to block any visible entry ways for mice and this neighbour blocked off an entry way under the sink. The landlord testifies that the tenant had one room in the unit full of items which could have created hiding places for the mice.

The tenant disputes the landlords claims and testifies that on April 22, 2012 the landlord sent the tenant an e-mail indicating that the cleaner had gone in and checked the unit and set the mouse traps with peanut butter and that the cleaner had found a lot of mice droppings in the unit. The tenant argues that this shows the problem was not dealt with by April 20, 2012 as claimed by the landlord.

The landlord testifies that on April 24, 2012 the landlord sent the tenant another e-mail asking the tenant to go back and look at the unit and informed the tenant that the landlord would not charge the tenant rent for May of \$500.00 in compensation for the tenant having this mouse problem. The landlord testifies that they were not willing to forgive any rent for April as this problem was dealt with by April 20, 2012 by sending in the neighbour to set traps and block holes and by sending in the cleaner.

The landlord was given the opportunity to fax in copies of any e-mails in evidence after the hearing concluded. The landlord declined this opportunity and read testimony from an e-mail instead.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer the landlord to s. 32 of the Act which states:

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.

While I accept that some areas do suffer from problems with mice I am not satisfied that the landlord took the necessary steps to eradicate this problem in a timely or sufficient manner to ensure the tenants right to live in a clean and sanitary environment. The landlord should have investigated the situation more thoroughly by sending in an extermination company to eradicate this mouse infestation from all of the units in the fourplex and to ensure all entry points were blocked to prevent further infestation. Instead the landlord relied on the tenant and a neighbour to put down traps and seal any visible holes which did not prevent or eradicate the mouse problem as the tenant continued to find dead mice and droppings on April 27, 2012.

It is therefore my decision that the landlord has not complied with s. 32 of the *Act* in ensuring he has provided and maintained this residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and ensuring the rental unit is suitable for occupation by a tenant. I therefore uphold the tenants claim for compensation equivalent to three weeks rent for April of **\$750.00** and for the sum

of **\$61.95** for items purchased by the tenant to attempt to eradicate the mice. The tenant will receive a Monetary Order pursuant to s. 67 of the *Act*.

I further find the tenant was entitled to end the tenancy before the end the fixed term as the landlord failed to comply with s. 32 of the *Act*.

As the tenant has been successful in this matter the tenant is also entitled to recover the **\$50.00** filing fee.

Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$861.95**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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 14, 2012.

Residential Tenancy Branch