



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, RP, RR, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have requested compensation for damage or loss under the Act, that the landlord make repairs and that the tenants be allowed to reduce rent for repairs, services or facilities agreed upon but not provided and to recover the filing fee from the tenant for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

At the start of the hearing the tenant withdrew the portion of the application requesting repair and rent reduction.

Issue(s) to be Decided

Are the tenants entitled to compensation for damage or loss under the Act, in the sum of \$2,760.00?

Are the tenants entitled to filing fee costs?

Background and Evidence

The tenancy commenced on July 1, 2011, rent is \$850.00 due on the first day of each month.

The landlord supplied 31 pages of evidence, which included a detailed outline of the timing of events that occurred in relation to the reports of bed bugs. The tenant's

timeline of events, supplied with her application and as part of her 6 pages of evidence, aligned with that of the landlord.

In mid-July the tenant first reported the bed bugs to the building manager; an inspection was completed by the landlord's pest control company on July 19, 2012. On July 19, 2012 the unit was treated for mice and 1 live bed bug was located; the tenant's couch was steam cleaned by the pest control company on the next day.

The following events then occurred:

- July 26, 2012 pest control company inspection of 2 adjoining suites, no evidence of bed bugs found;
- July 31 tenant given treatment preparation letter;
- August 1 letter from tenant indicating she is not responsible for paying the cost of treatment;
- August 7, August 22, September 11, October 10 treatments were completed to the unit;
- Additional inspections of the unit occurred on July 19, September 20, October 18 and November 6; and
- That adjoining units were inspected and some treatment occurred during this time.

The tenant said that when she initially reported the bed bugs to the building manager she was told that unless she was willing to pay \$400.00 toward heat treatments, the landlord would not treat the unit. The tenant investigated her rights and responded to the landlord on August 1, 2012, indicating she could not pay for the treatment.

On August 1 the tenant wrote the landlord a letter that was stamped as received on August 2, 2012; the landlord submitted a copy of this letter. The tenant asked the landlord to take action; that she had first reported the problem on July 18, 2012.

The landlord had scheduled heat treatment for August 7 but that treatment was altered to chemical treatment. On July 31, 2012 the tenant was given a treatment preparation sheet and letter indicating the pest control company had been hired to provide the treatment on August 7, 2012; a copy of these documents were provide as evidence.

The tenant said that on September 20, 2012 the pest control company had found another bed bug and treated the couch, but that the bed had not been treated. When the tenant noticed evidence of bites she called the landlord and further treatment was scheduled for October 10, 2012.

The tenant confirmed that since the last treatment on October 10, no further evidence of bed bugs has been found.

The tenant reacted badly to the bed bugs; she provided several photographs showing the swelling and reactions she suffered. The tenant supplied letters that confirmed the presence of bed bugs and the inconvenience, stress and anxiety the presence of the bugs caused. The tenant supplied copies of prescriptions showing the cost of medications purchased in the sum of \$52.08.

The tenant has claimed compensation in the sum of \$2,760.00 as a result of delays in treatment and the provision of information by the landlord.

The landlord apologized if the tenant had been under the impression that they would not pay for treatment. The building manager who initially communicated with the tenant is now ill and could not attend the hearing, but the landlord was confident that the agent had indicated to the tenant that she had been offered a choice to pay \$400.00 for heat treatment, which is above the normal cost for standard treatment for bed bug control. This is the landlord's standard practice. The landlord would not have delayed treatment; they only wished to give the tenant a chance to pay the difference, for a less intrusive method of treatment.

As the tenant had misunderstood the landlord's intentions the landlord offered the tenant \$200.00 as compensation, in good faith. The landlord said that they did what they could to respond to the reports of bugs, to inspect and to treat and believe their actions were appropriate. The tenant declined the offer.

Analysis

When making a claim for damages under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or Act, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss.

Residential Tenancy Branch policy suggests that an arbitrator may also award "nominal damages", which are a minimal award. These damages may be awarded where there has been no significant loss or no significant loss has been proven, but they are an affirmation that there has been an infraction of a legal right. I have considered nominal damages in relation to the tenant's claim.

There was no dispute the tenant's unit had a bed bug problem that was addressed between July and November, 2012. From the evidence before me it is apparent that the tenant suffered a reaction to bites. It is also apparent that the landlord did address the problem by carrying out inspections and treatment of adjoining suites and repeated inspection and treatments of the tenant's suite.

In relation to the claim that the landlord has breached the Act, the tenant has the burden of proving that the timing of treatments was delayed and outside of that considered

acceptable. The evidence before me showed that on July 20, 2012, when a live bed bug was found on the tenant's couch, only the couch was treated. It was not until August 7, 2012 that a complete treatment of the unit was completed; 18 days after the initial report of bed bugs and 17 days after 1 bed bug was found in the unit.

I accept that the landlord takes reports of bed bugs seriously but find that in this case there was a delay in initial treatment beyond that which would be reasonable. This delay cannot be said to have contributed to the on-going problem that appears to have been solved as of October 10, 2012, but it leads me to conclude that the landlord has some responsibility for the discomfort experienced by the tenant during this time.

I find that the tenant has not proven a claim in the sum of \$2,760.00. There was no evidence before me of any loss suffered outside of prescription costs and the obvious discomfort that bed bugs would cause. As the landlord did mitigate by providing what I find were treatments completed in a reasonable fashion from August 7, 2012 onward I find that the tenant is entitled to compensation in a nominal sum of \$250.00 and that the balance of the claim is dismissed.

As the tenant's application has some merit I find that the tenant is entitled to filing fee costs in the sum of \$50.00.

Therefore, the tenant may deduct \$300.00 from the next month's rent owed, in satisfaction of the claim.

Conclusion

The tenants are entitled to deduct \$300.00 from the next month's rent in satisfaction of their claim for damage or loss and for filing fee costs.

The balance of the tenant's claim is dismissed.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 12, 2012.

Residential Tenancy Branch