



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GATEWAY PROPERTY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC MNSD O FF

Preliminary Issues

At the outset of this proceeding the Tenant confirmed they vacated the rental unit effective February 27, 2013, as they could no longer live in those run down conditions, so they were amending their application to withdraw all requests for repairs, to have the Landlord comply with the Act, for future rent reductions, and to have the Landlord provide services or facilities required by law. He stated they wished to proceed with their request to end their fixed term lease, for money to cover the cost of the pest control, and to have their security and pet deposits returned to them.

Introduction

This hearing dealt with an Application for Dispute Resolution filed on February 8, 2013 by the Tenants to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement; to have their security and pet deposits returned to them; and to recover the cost of the filing fee from the Landlord for this application.

The Tenant affirmed that he personally served the Landlord with copies of their application for dispute resolution, the notice of hearing documents, and the first submission of their evidence, at the Landlord's office on February 14, 2013. The second package of evidence containing photos was personally delivered to the Landlord's office on February 26, 2013. Based on the submissions of the Tenant I find the Landlord was sufficiently served notice of this proceeding in accordance with the Act so I continued in the Landlord's absence.

Issue(s) to be Decided

1. Should the Tenants be issued an Order ending their fixed term lease?
2. Should the Tenants be issued a Monetary Order?

Background and Evidence

The Tenants submitted documentary evidence which included, among other things, copies of: the Tenants' statement of claim; photos of the rental unit taken in February 2013; a letter issued by the Landlord; and pages of a tenancy agreement entered into on May 14, 2012. The Landlord did not submit evidence in response to the Tenants' application for dispute resolution.

The Tenant stated that they entered into a fixed term tenancy agreement that began on May 15, 2012 and was to expire in 1 year. Rent was payable on the first of each month in the amount of \$890.00 and on approximately May 14, 2012 they paid \$445.00 as the security deposit plus \$445.00 as the pet deposit. No move in condition inspection report was completed however the temporary manager gave the Tenants a condition inspection form and asked them to complete the document themselves. The Landlord did not request a copy of that form.

The Tenant said that every time they requested repairs they were told that repairs were not in the Landlord's budget and things would not get fixed. Things continued to deteriorate which included the following (as supported by their photographic evidence):

- Feces, used condoms, and needles, in the parking lot
- Garbage piled up and spread throughout the parking lot
- Baseboard heaters inside in common areas and inside their rental unit that were missing pieces or torn apart
- A missing kitchen cabinet between their fridge and stove which they were told would be replaced at the beginning of their tenancy
- They could not use their balcony because the railing was not attached or bolted to the wall on one side
- Live bare electrical wires on the exterior of the building
- The only elevator in the building broke January 30, 2013 and was not repaired until February 8, 2013
- The front door handle was broken then repaired several days later only to break a second time and was still broken when they moved out
- Their kitchen drawer facing was not attached properly

The Tenant confirmed that there were resident managers in the building which he advised of his repair requests; however there were four different managers in the eight months they lived there.

The Tenant advised they provided the Landlord written notice of their concerns in December 2012 and when no action was taken they approached the Landlord at the end of January 2013 to attempt to resolve the issues. He said the Landlord refused to negotiate their concerns and refused to let them out of their lease. On January 29, 2013 they informed the Landlord they would be ending their tenancy as they could no longer live in the deteriorated conditions. They were told that it was against the Landlord's policy to let anyone out of a fixed term lease. They filed their application for dispute resolution February 8, 2013 and could not continue to live in the unit until the March 6, 2013 hearing date so they vacated by February 27, 2013.

The Tenant confirmed they attended a move-out inspection with the Landlord on February 27, 2013. They provided the Landlord their forwarding address on the move out inspection report form that same day. The Tenant said he understood how his application for the return of his security and pet deposits was premature and he was withdrawing that request at this time.

The Tenant is requesting to be reimbursed for pest control fees of \$65.00 which the Landlord demanded they arrange and pay for. The Tenant advised their unit was treated for bed bugs which was paid for by the Landlord. Afterwards they were told to have the items in their storage unit treated at their own cost as supported by the letter they provided in their evidence. The Tenant read the pet control invoice information during the hearing and confirmed it was dated December 24, 2012 and was \$65.00 inclusive of HST.

Analysis

Given the evidence before me, in the absence of any evidence from the Landlord who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Tenant and corroborated by their evidence.

Section 32 of the Act stipulates 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.

Upon consideration of the foregoing, I find the Tenants took appropriate actions to attempt to resolve the issues and have the Landlord comply with the Act, regulation, and tenancy agreement; however, the Landlord refused leaving the Tenants in a position where they felt they had no choice but to vacate the unit. Accordingly, I hereby

order this tenancy agreement to have ended on February 27, 2012, in accordance with section 44(1)(f) of the Act.

I accept the undisputed evidence that the Tenants were required by the Landlord to pay \$65.00 for additional pest control treatments on December 14, 2012. In this case, I find pest control treatments for the presence of bed bugs to be the Landlord's responsibility pursuant to section 32 of the Act. Accordingly, I award the Tenants reimbursement of their pest control payment of **\$65.00**.

The Tenant's have primarily been successful with their application; therefore I award recovery of their **\$50.00** filing fee.

Conclusion

I hereby order this tenancy to have ended on February 27, 2012, in accordance with section 44(1)(f) of the Act.

The Tenants have been issued a Monetary Order in the amount of **\$115.00** (\$65.00 + \$50.00). This Order is legally binding and must be served upon the Landlord.

The security and pet deposits currently held in trust by the Landlord are to be administered in accordance with Section 38 of the *Residential Tenancy Act*.

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: March 06, 2013

Residential Tenancy Branch

