



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KITSILANO MANAGEMENT LTD.
And [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, MNDC

Introduction

The tenant has applied for dispute resolution of a dispute in the tenancy at the above noted address, and requests an order that the landlord comply with the Act, regulation or tenancy agreement, and a Monetary Order, both related to an alleged infestation of bed bugs.

Issues to Be Decided

- Has the landlord failed to comply with the Act, regulation or Tenancy Agreement?
- If so, is the tenant entitled to an order of compliance?
- Is the tenant entitled to a monetary order?

Background and Evidence

This tenancy began on February 1, 2012. Monthly rent is \$850.00 (plus \$50.00 for parking) due on the 1st day of each month.

The tenant submits that bed bugs were discovered in the rental premises in February. The tenant does not believe he brought bed bugs into the unit. The tenant took steps to eliminate the problem including steaming, using a bed bug mattress cover, and use of diatomaceous earth. The tenant reported the problem of bed bugs to the landlord's manager on February 13, 17 and 27. No steps were taken by the landlord. The tenant was told by other tenants in the apartment building at the end of February that the landlord has a history of inactivity regarding pests generally. The tenant continues to find more bed bugs in his unit. The tenant filed his initial claim on March 5, 2014. On March 27, without any advance notice, the landlord sent a worker to the unit equipped with a canister and spray, seeking to spray the baseboards in the unit for bed bug control. The tenant's girl friend was home but was sick, and she denied entry to the landlord. No further efforts have been made by either the landlord or tenant, to spray the premises. The tenant wants a professional pest control company to eradicate the bed

bug infestation. The tenant also wants the landlord to refund all rent paid for the month of March, as the presence of the bed bugs have caused anxiety and an inability to enjoy the premises.

The landlord submits that there was no problem with bed bugs in the unit when the tenancy began, and therefore it is probable that a problem with bed bugs is a result of the tenant bringing them into the premises. The landlord denies that the tenant requested the landlord to take any steps regarding the bed bugs, and that the tenant or his girl friend told the building manager that they would attend to the bed bug problem on their own. Regardless, on March 27, the landlord's handyman attended the premises ready to spray the unit's baseboards with a spray certified for bed bug control. Entry was not granted for this purpose by the tenant or his girl friend. The tenant should not be entitled to any rebate of his rent, as the landlord is not liable for any alleged problems dealing with bed bugs.

Analysis

The presence of bed bugs in a rental unit can be a pervasive and difficult problem. Bed bugs can be brought in to the premises unintentionally, and without anyone's knowledge. Bed bugs can migrate from one room to another and from one rental apartment to another, and when present can certainly cause a tenant anxiety and sleeplessness. Even when appropriate steps are taken to control bed bugs, infestations have proven to be difficult to control in apartment complexes, particularly if the problems are not reported at an early stage, or if no steps are taken at an early stage. Accepting that a problem exists in this case, the issue is whether the landlord must immediately pay the expense to have a professional pest control company investigate and take all necessary steps to eradicate the premises of bed bugs, and whether the landlord must rebate rent to the tenant.

Section 32 of the Residential Tenancy Act provides that a landlord and a tenant both have statutory duties regarding the repair and maintenance of premises. Section 7 of the Residential Tenancy Act provides that if a landlord does not comply with the landlord's obligations under the Act, regulations or the tenancy agreement, the landlord must compensate the tenant for damage or loss that results. The Act also requires that the tenant in turn must do whatever is reasonable to minimize his damage or loss. The tenant bears the burden of proof in this claim, to establish on a balance of probabilities that the landlord violated the Act, regulations, or tenancy agreement. The tenant must also demonstrate the tenant did what was reasonable to minimize any damage or loss.

I accept that there were no bed bugs present at the start of the tenancy, given that no bed bugs were noticed by the tenant for over a year. Still, a problem now exists and must be addressed. To be most effective, steps must occur in a timely way to control bed bugs, but I do not accept the tenant's contention that in cases where a landlord is in fact found responsible to address a bed bug issue, that a landlord must immediately engage and employ a professional eradication process, unless and until other less expensive and invasive measures (including but not limiting the spraying of baseboards with appropriate spray) have proven to be futile or insufficient. In fact, the tenant has failed to proven on a balance of probabilities, how the problem with the bed bugs originated. It is possible it originated in another unit and spread to the tenant's unit, in which case it would be clear that the tenant was not at fault in any way for the infestation. It is equally possible that the tenant or his girl friend (or some other guest) somehow brought the pests into the unit, in which case it would be clear that the landlord was not at fault in any way for the infestation. In cases where it is unclear how the problem originates, however, the landlord still has a responsibility to take steps to investigate the problem.

In dealing with the issue, I find both parties have failed to take appropriate steps. I note that the landlord was served with the tenant's original claim by registered mail, which was sent out March 9. Even if this was the first notice of a problem as contended by the landlord, the landlord failed to send the handyman to the unit in a timely way, (the handyman came on March 27). The landlord also failed to provide the proper 24 hour notice to the tenant to advise of the intention to spray the unit. The tenant in turn, after denying access to the landlord's handyman due to lack of notice, failed to take any steps thereafter to negotiate a time when the landlord's handyman could return to the unit to spray the baseboards.

I note that the landlord continues to remain ready to spray the baseboards, and I suggest that step is in both parties' interests. I decline to order under the circumstances of this case, that the landlord must immediately engage a professional pest control company.

While the tenant has continued to reside in the premises and enjoy the use of the space, I accept that some loss of enjoyment of the premises has occurred related to the delay by the landlord in responding to the tenant's concerns. I accept that at a minimum it is proven that this delay covers a two week period beginning in mid-March, by which time the landlord would have received notice of the tenant's claim, to March 27, when the landlord finally sent a handyman to the tenant's door. I value the tenant's loss of enjoyment during this period as 20% of the pro-rated rent during this period. When

calculated, this translates to \$80.00. This sum must be paid by the landlord to the tenant, or alternatively can be deducted from a future rental payment by the tenant.

Conclusion

The tenant's request to have a professional company eradicate bed bugs is dismissed. The tenant is issued a monetary order in the amount of \$80.00, representing a loss of enjoyment of the premises resulting from the landlord's delay in investigating the tenant's concerns about the bed bugs.

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: April 07, 2014

Residential Tenancy Branch

