



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNSD, MNDC, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The Tenant applied on May 15, 2014 for:

1. An Order for the return of the security deposit – Section 38.

The Landlord applied on February 16, 2014 with an amendment made May 21, 2014 for:

1. A Monetary Order for damage to the unit – Section 67;
2. A Monetary Order for compensation – Section 67;
3. An Order to retain the security deposit – Section 38; and
4. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions under oath.

Issue(s) to be Decided

Is the Tenant entitled to return of the security deposit?

Is the Landlord entitled to the monetary amounts claimed?

Is the Landlord entitled to recovery of the filing fee?

Background and Evidence

The tenancy started October 1, 2003 and ended on February 28, 2014. At the outset of the tenancy the Landlord collected \$362.50 as a security deposit. The unit is contained in a 30 year old building with other units. On December 16, 2013 the Tenant informed the Landlord that bedbugs were present in the unit. On December 30, 2013 the Landlord had the unit inspected by a company using dogs. The company also inspected the adjoining units. On January 13, 2014 the unit was given a heat treatment and on February 3, 2014 a follow-up inspection was made on the units.

The Landlord states that the hallway and unit door across the hallway from the dispute unit were also inspected and that no bedbugs were found other than in the Tenant's unit. The Landlord states that to his knowledge there is no history of bedbug infestations and that the historical minutes of the Strata were also examined and showed no information about a previous infestation. The Landlord states that the bedbugs in the Tenants unit were only found on the bed and couch. The Landlord agrees that there is a multitude of ways that bedbugs could enter the unit but argues that given this history with the building and given that the bedbugs were only present in the Tenants unit that only the Tenant could have caused the infestation. The Landlord claims the costs of the inspections and treatment.

The Tenant states that she did not bring in any furniture or used clothes into her unit and that she does not have visitors to her unit as she meets people outside the unit. The Tenant states that 50% of the units in the building are rentals, that she recently saw other tenants move an old mattress into the building. The Tenant argues that other tenants may have had bedbugs and treated the problem themselves without informing the Strata and without complete success at eradication. The Tenant states that the adjoining units that were inspected were noted to be cluttered and had food present causing the inspection to be limited in those units causing the findings to be invalid. The Tenant states that in March 2013 the persons in one of the adjoining units had moved from a unit in the building that was not inspected. The Tenant argues that the bugs could have come from anywhere. The Tenant states that this is the reason she

ended her long tenancy as she has no faith that her unit will not become infested again from another part of the building that has not been inspected.

Analysis

Section 32 of the Act provides that a tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access and must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant. Section 7 of the Act provides that where a tenant does not comply with the Act, regulation or tenancy agreement, the tenant must compensate the landlord for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

The Landlord did not provide any evidence that the Tenant introduced the bugs into the unit and did not provide any evidence that the Tenant was negligent and that this negligence caused the bedbugs to enter the unit. The Landlord relies only on the default position that if no other unit was infested the Tenant must have caused the infestation. I do not accept this argument given the multiple ways a bedbug could have entered the building and unit and accepting that the inspections of the adjoining units were limited due to the presence of food and clutter. I find therefore that the Landlord has not shown on a balance of probabilities that the Tenant failed to maintain the unit as required under the Act and I therefore dismiss the Landlord's application. As the Landlord has no right to retain the security deposit, I order the Landlord to return the security deposit of \$362.50 plus interest of \$12.84 to the Tenant forthwith.

Conclusion

The Landlord's application is dismissed.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$375.34**. If necessary, this order may be filed in the Small Claims Court and enforced 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: June 05, 2014

Residential Tenancy Branch

