



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, OLC

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss and an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement.

The Landlord and the Tenant agree that on May 15, 2014 the Application for Dispute Resolution and the Notice of Hearing were personally served to the Landlord.

On June 26, 2014 the Landlord submitted two documents and 32 photographs to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Landlord stated that she "thinks" her son placed these documents/photographs in the Tenants' mailbox, although she does not know the date of service. The female Tenant stated that these documents/photographs were not received.

I find that the Landlord submitted insufficient evidence to show that the Landlord's evidence was served to the Tenant and it is not being accepted as evidence for these proceedings. In reaching this conclusion I find that there is no evidence from the Landlord's son to say that he served this evidence. I find that the female Tenant's testimony that the evidence was not received is more compelling than the Landlord's testimony that she "thinks" her son served this evidence.

On June 25, 2014 the Tenant submitted numerous documents and a USB stick to the Residential Tenancy Branch, which the Tenant wishes to rely upon as evidence. The female Tenant stated that this evidence was sent to the Landlord, via registered mail, on June 25, 2014. The Landlord acknowledged receipt of this evidence and it was accepted as evidence for these proceedings. The Landlord stated that she has been able to view the images on the USB stick.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

Issue(s) to be Decided

Is the Tenant entitled to compensation as a result of bedbugs?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on May 01, 2014; that the Tenant agreed to pay monthly rent of \$650.00; and that the rental unit was vacated on May 31, 2014 or July 01, 2014.

The female Tenant stated that a few days prior to May 12, 2014 she developed a "rash", which a doctor subsequently determined were bed bug bites. She stated that on May 12, 2014 found two live bedbugs and one dead bedbug, although she did not located any bedbugs after that date.

The Landlord and the Tenant agree that on, or about, May 12, 2014 the Tenant informed the Landlord that there were bedbugs in the rental unit.

The Landlord argued that there were no bedbugs in the rental unit prior to the start of the tenancy; that they have had no previous problems with bedbugs in the complex; and that there has been no evidence of bedbugs in the rental unit since the tenancy ended. She stated that no bedbugs have been detected in her home, which is above the rental unit.

The female Tenant stated that they had no problems with bedbugs prior to moving into the rental unit. She stated that on February 22, 2014 they moved from Prince George to the male Tenant's mother's home; that there were approximately ten people, including the Tenants living in the mother's home; and that nobody in the mother's home experienced bedbugs.

The Landlord and the Tenant agree that after being informed of the problem with bedbugs the Landlord told the Tenant she would arrange to have pest control treat the rental unit. The parties agree that the rental unit was not treated for bedbugs prior to the end of the tenancy.

The Landlord stated that became angry when she observed the Tenant removing carpet from the rental unit so she cancelled her plans to call pest control. The male Tenant stated that he did remove the carpet from the rental unit but that he did so with the consent and the assistance of the Landlord's son. The Landlord stated that her son did not give the Tenant permission to remove the carpet and that he only helped remove the carpet after the Tenant had removed most of the carpet.

The Tenant submitted a letter from her employer, who declared that the Tenant did not have any bedbug bites on April 29, 2014.

The female Tenant stated that on May 23, 2014 the Landlord served the Tenant with a One Month Notice to End Tenancy for Cause, which declared that the Tenant must vacate the rental unit by June 30, 2014. The Landlord stated that she did give the Tenant notice to end the tenancy, although she could not describe the notice that she provided to the Tenant and she could not recall when the notice was provided, although she believes it may have been provided on May 23, 2014.

The Landlord and the Tenant agree that on May 27, 2014 the Tenant informed the Landlord that they would be vacating on June 01, 2014, and both parties were agreeable to that resolution. The female Tenant stated that the rental unit was vacated because of the presence of bedbugs.

The Tenant submitted digital images of marks at various locations on the female Tenant's body. The Housing Support Worker stated that both Tenants met with her on May 24, 2014, at which time she viewed the marks on the female Tenant and determined that they were bedbug bites. She stated that she is familiar with bedbug bites as a result of her employment.

The Tenant submitted digital images of an insect, which the female Tenant contends is a bed bug based on her internet research. Neither party submitted evidence from a pest control expert that establishes the length of time the bugs were in the rental unit or that establishes the insects were actually bedbugs.

The Tenant is seeking compensation for the cost of replacing their mattress and a crib mattress and for washing 20-30 loads of laundry, at \$10.00 per load. The Tenant is also seeking a rent refund for the month of May, as a result of the infestation.

Analysis

On the basis of the testimony of the female Tenant, who stated that a doctor told her she had bedbug bites, and the testimony of the Housing Support Worker, who stated that the female Tenant had bedbug bites and that she is familiar with bedbug bites through her employment, I find it reasonable to conclude that the female Tenant has been bitten by bedbugs.

Section 32(1) of the *Residential Tenancy Act (Act)* requires a landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and, having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 32(2) of the *Act* a tenant to maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

The difficulty with bedbug infestations, is it is difficult to determine which party introduced the bedbugs into the rental unit. On the basis of the testimony of both

parties, I am satisfied that neither party was aware of an infestation prior to May 12, 2014. I find it entirely possible that the rental unit was infested during a previous tenancy and that the Landlord simply was not aware of the infestation. I find it equally possible that the Tenant unwittingly introduced bedbugs into the rental unit.

In determining this matter I was influenced, to some degree, by the Tenant's testimony that only three bedbugs were located. This causes me to believe the infestation is relatively new. In determining this matter I was further influenced by the absence of evidence from a pest control technician who may have been able to estimate when the infestation began.

In the absence of evidence that shows the Landlord was aware of a bedbug infestation prior to the start of the tenancy, I find that the Landlord is not obligated to pay for the cost of disposing or cleaning infested personal items belonging to the Tenant. As there is no evidence the Landlord was aware of the infestation prior to the Tenant's property being impacted, I simply cannot conclude that the Landlord is responsible for the Tenant's property.

Once a landlord becomes aware of a bedbug infestation, I find that a landlord has an obligation to have the rental unit treated, pursuant to section 32(1) of the *Act*. In these circumstances, I find that the Landlord did not act reasonably when she failed to have the reported infestation investigated by a pest control expert and, if necessary, treated. Regardless of any actions taken by the Tenant, including removing carpet, I find that the Landlord had an obligation to respond to the report as soon as was practicable.

I find that the Landlord's failure to investigate/treat the reported infestation in a timely manner breached the Tenant's right to the quiet enjoyment of the rental unit for the period between May 12, 2014 and May 31, 2014, and ultimately led to the Tenant's decision to vacate the rental unit. Given that the untreated infestation was directly related to the Tenant's decision to vacate the rental unit, I find that the breach of the Tenant's quiet enjoyment was a serious breach and I find that the Tenant is entitled to compensation of \$600.00, which is the equivalent of one month's rent.

It is important for all parties to be aware that the \$600.00 in compensation is being awarded because the Landlord did not investigate/treat the reported infestation. It is not being awarded because there was an infestation, as I am not satisfied the Landlord caused, or was aware, of the infestation prior to May 12, 2014.

The amount of this award was intended to compensate the Tenant, in large part, for the inconvenience from having to move from the rental unit. Given the Landlord's failure to investigate/treat, I find the decision to move was reasonable.

In determining this matter I have placed no weight on the fact that the Tenant removed the carpet in the rental unit. The Landlord's obligation to investigate/treat the carpet was not negated by the Tenant's decision to move the carpet. The Landlord retains the

right to file an Application for Dispute Resolution seeking compensation for damages done to the rental unit.

Conclusion

I grant the Tenant a monetary Order for the amount of \$600.00. In the event the Landlord does not comply with this Order, it may be served on the Landlord, filed with the Province of British Columbia 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: July 09, 2014

Residential Tenancy Branch

