



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding RANIER HOLDINGS LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, FF, O

Introduction

This hearing dealt with the landlords' application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for unpaid rent, for recovery of the filing fee and for other relief, more specifically to restore the tenant's monthly rent to \$780.

The landlord and tenant attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The evidence was discussed and neither party raised any issue regarding service of the evidence.

Thereafter both attending parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, respond to the other's evidence, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the landlord entitled to monetary compensation, other relief and to recover the filing fee?

Background and Evidence

The parties have been in at least 4 prior dispute resolution hearings pertaining to the same issue, or bedbugs in the residential property.

Hearing #1:

On March 5, 2013, in the first hearing between these parties on the matter of bedbugs in the rental unit and in the residential property, another Arbitrator made the following order for the landlord:

- *That a schedule of inspections, for licenced pest control follow-up in the building, will be developed and the tenant will be given a written copy of this schedule;*
- *That all treatments for pest control be followed by an inspection of the treated and surrounding suites, within the time-frame suggested by the licenced pest control company, in order to establish the need for further treatments;*
- *That any unit that has been treated for pests, inspected as required and found to have pests will again be treated as soon as possible and as recommended by the licenced pest control company;*
- *That tenants will be given notice of entry, in accordance with section 29 of the Act and pest control preparation sheets will be provided each time treatment or inspection is planned for a unit;*
- *That any occupant who does not cooperate with pest control treatment preparation and inspections will be given notice of their responsibility to cooperate and that the landlord is expected to ensure all occupants comply with the instruction of the licenced pest control company;*
- *That the landlord will take steps in accordance with the Act, should any occupant fail to cooperate with attempts to eradicate the pests, as those failures can contribute to prolonged infestation and impact the quiet enjoyment of other occupants;*
- *That the tenant be given permission and the authority to directly contact the licenced pest control company hired by the landlord, to report the presence of bed bugs and that the landlord will give the pest control company authority to respond to reports made by the tenant, so that delays in inspection and/or treatment do not occur;*
- *That the landlord give the licenced pest control company the authority to share general information of the on-going need for treatment and inspections in the building with the tenant; and*
- *That at the time of an inspection or treatment by the licenced pest control company occupants of the affected unit will be immediately notified, either in person or by way of a note left in the unit, if any follow-up visits are required and, if so, when to expect those visits by the licenced pest control company will be scheduled.*

The parties agreed that a pest control technician would inspect the tenant's room on March 5, 2012.

Hearing #2:

On the tenant's application for monetary compensation, the undersigned Arbitrator provided the following in a Decision dated July 22, 2013:

I therefore order the landlord to compensate the tenant in the amount of \$780 per month retroactively for 26 days in March (March 5-31) in the amount of \$666.64 (\$780 monthly rent x 12 months per year = \$9360 yearly rent ÷ 365 days per year = \$25.64 daily rate x 26 days) and for the months of April, May, June, and July, in the amount of \$3120, for a total monetary award of for devaluation of the tenancy in the amount of \$3786.64.

I also allow the tenant recovery of the filing fee of \$50.

Due to the above, I find the tenant is entitled to a monetary award of \$3836.64.

I direct the tenant to satisfy his monetary award as follows:

The tenant is to withhold rent of \$780 for August, September, October, and November 2013, for a total of \$3120. The balance of his monetary award is \$716.64 (\$3836.64- \$3120), which amount I direct the tenant to retain from his monthly rent of \$780 for the month of December 2013. For clarity, the tenant's rent payment for December 2013 is \$63.36.

Until the landlord has fully complied with the orders and directives of the Arbitrator contained in the March 5, 2013 Decision, I grant the tenant a continuing rent abatement of \$780 per month, beginning in January 2014, forward. I further authorize the tenant to withhold his monthly rent payment of \$780 until the landlord has filed an application for dispute to prove to the Residential Tenancy Branch that it has complied with this Decision and the Decision of March 5, 2013, and be granted an order restoring the tenant's monthly rent of \$780.

When the tenant is withholding his monthly rent as directed above, the landlord is to consider that rent for these months is paid in full.

Hearing #3:

In a Decision on December 16, 2013, another Arbitrator dismissed the tenant's application for monetary compensation due to his finding that the tenant had been provided compensation pursuant to the July 22, 2013, Decision as previously referenced.

Hearing #4:

The last hearing occurred on February 18, 2014, on the landlords' application to restore the tenant's monthly rent to \$780, as the tenant was given a continuing rent abatement

for the full amount of rent, beginning in January 2014, until the landlord had complied with an order from another Arbitrator, on March 5, 2013.

In a Decision dated March 7, 2014, another Arbitrator dismissed the landlord's application for the following reason:

I find that the Landlord did not provide sufficient evidence that he has complied with the Order of March 5, 2013. The Landlord provided no evidence:

- *that an inspection schedule had been developed and a copy provided to the Tenant;*
- *that inspections or treatments had been done within time-frames suggested by a licensed pest control company;*
- *that the Tenant was given permission and authority to directly contact the licensed pest control company in order to report the presence of bed bugs;*
- *that the Landlord gave the licensed pest control company authority to respond to reports made by the Tenant;*
- *that the Landlord gave the licensed pest control company authority to share general information regarding treatment and inspections with the Tenant; or*
- *that, at the time of an inspection or treatment, occupants of the affected unit were immediately notified of follow-up visits.*

It is also important to note that the Landlord's documentary evidence indicates that a canine inspection for bed bugs was done for the full building in August, 2013, but there is no indication on the invoice whether or not bed bugs or eggs were found.

In the case before me, the landlord applied for monetary compensation of \$3770, which he claimed was to recover rent from January through April 2014, due to his contention that he had complied with the order of March 5, 2013.

In support of his application, the landlord submitted that the landlord has developed a plan to eradicate the bedbugs, as previously ordered, and have multiple treatments, including the latest on May 26, 2014. The landlord, however, did not provide the report for this treatment, or the findings of the licensed, professional pest control company they have hired. When asked why he did not submit this statement, he replied that he thought it was too late to submit further evidence.

The landlord submitted that there are presently no bedbugs in the residential property and the reports of the pest control company he submitted verify this contention.

The landlord submitted that the latest inspection was with a trained dog.

In response, the tenant submitted that the landlord is not being truthful, as the documentary evidence supplied by the landlord shows bedbug activity in the rental unit across the hall from him and in the rental unit directly below his rental unit and one other unit. As previously noted in other hearings, the rental unit is within a multi-unit, multi-level building.

The tenant denied receiving the report from the May 26, 2014, inspection, and did not receive any reports until being provided the same with the landlord's evidence.

Analysis

As to the landlord's monetary claim, the tenant was granted the full rent abatement, beginning in January 2014, and that the rent abatement was to continue until the landlord filed an application to restore the monthly rent to \$780, and to be granted that relief by an Arbitrator. This is the landlord's second such application.

As the tenant was authorized to withhold rent, I find the landlord has failed to prove he is entitled to recover the months of rent the tenant was legally entitled to withhold rent. I therefore dismiss the landlord's application for monetary compensation.

As to the landlord's request to restore the tenant's monthly rent, as I mentioned in the hearing, it is hard to imagine why the landlord would not submit the latest report from the licensed, professional pest control company, most recently said to be performed on May 26, 2014, given the history of this tenancy regarding bedbugs and the request of the landlord in this application. I find the lack of the report caused me to doubt the contents of the report from the latest inspection, on May 26, 2014.

Further from a review of the landlord's evidence, I find the evidence suggests that bedbugs have been detected in other rental unit close to the tenant's rental unit in recent times, in contradiction to the submissions of the landlord.

I therefore find the landlord has submitted insufficient evidence that they have complied with the orders in the March 5, 2013, Decision of another Arbitrator. While I find that the landlord has provided bedbug treatments, it appears that there are still bedbugs in the residential property. I also do not have evidence that the tenant has been informed of the course of treatments or the reports, or that the licensed, professional pest control company was authorized to discuss the treatments with the tenants.

I also do not find the evidence of the landlord to be conclusive as to the effectiveness of the treatments, and due to this and the above, I dismiss the landlord's application to restore the tenant's monthly rent to \$780.

In order that the issue between the two parties can be resolved on a permanent basis, rather than through repeated dispute resolution hearings, the landlord may consider giving the licensed, professional pest control company the March 5, 2013, Decision, in order to better let the pest control company understand the required steps and treatments and to be able to generate the proper reports.

As I have dismissed the landlord's application, I also decline to award them recovery of their filing fee.

Conclusion

For the reasons stated above, the landlord's application is dismissed.

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 09, 2014

Residential Tenancy Branch

