



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC, MT, RP, OPR, OPB, MND, MNR, FF

Introduction

In the first application the tenants seek to cancel a ten day Notice to End Tenancy, to obtain a money award for the inconvenience and cost arising from an alleged bed bug infestation and for an order the landlords conduct repairs.

In the second application the landlords seek an order of possession, a monetary award for unpaid rent or loss of rental income and a monetary award for damage to the premises.

As of the date of hearing the tenants were still in possession of the rental unit but moving out today, November 19, 2014. It was agreed that the landlords would have an order of possession effective tomorrow, November 20th.

A repair order is no longer an issue because the tenants will be living elsewhere tomorrow.

The landlords' claim for damage to the suite is premature. It was agreed that the claim is withdrawn and, after the tenants have vacated and a move-out inspection and report done, the landlords may apply again. I grant them any leave necessary to do so.

It is agreed that the tenants have paid no money for rent or "use and occupation" for the months October or November 2014.

Issue(s) to be Decided

The remaining issues are 1) what if anything are the landlords owed for rent due in August and September, and 2) what if any damages are the tenants entitled to as a result of an alleged bedbug infestation?

Background and Evidence

The rental unit is a two bedroom basement suite in the landlords' home. Until late September 2014 an adjacent one bedroom suite was occupied by another tenant "James." Since then it has been occupied by a relative of the landlords on a non-tenancy basis.

The tenancy started July 1st, 2014. The monthly rent is \$700.00. The tenants paid the July rent and a \$350.00 security deposit.

The landlord's representative testified that the tenants gave written notice on July 31, 2014 that they would be leaving because of the neighbouring tenant James. The notice indicates they would leave by August 31, 2014. With that notice the tenants paid \$300.00 toward August rent and unilaterally offset the \$350.00 security deposit, leaving a \$50.00 balance.

The landlord's representative says that the tenants only paid \$500.00 for September rent and so, with the October and November lack of payment, the tenants owe \$1650.00.

The tenant Ms. H. agrees with the \$50.00 balance, but claims it was from September not August. She says the tenants paid the September rent and so, with October and November, only owe \$1450.00.

Ms. H. says that after James vacated in late September, all the bedbugs that has been in his suite moved to her suite. She describes a major infestation where the bug were found coming through by the hundreds. She says she found them on her person during the day. She says the landlords did nothing and so she hired a pest control company. The \$136.50 receipt for that service shows the company man attended at the premises on September 30, 2014 and found "hits" at various locations, observing live bugs on the sofa. It is not clear whether the pest company administered any treatment, but Ms. H. says she spend an amount in excess of her rent on pest control items after that. A monetary order worksheet filed by the tenants but not referred to during the hearing, lists pest control costs, cleaning and loss of household goods to a total of \$2954.57.

The tenant Mr. C.R. testified about the emotional difficulties he encountered in dealing with the bedbug infestation.

Ms. T. for her parents relates a different history. She says that on September 30th she and her brother were summoned to the lower suite and presented with the \$136.50 receipt. The landlords, their parents, were not home at the time. She says that was the first the landlords had heard about the bedbugs.

As a result, the landlords retain their own pest control company. A representative from that company attended on October 4th and checked the landlords' portion of the home and the adjacent suite in the basement. His report indicates there was no sign of any pests, bedbugs, fleas, *etc.*. He did not check the tenants' suite because no one was home to allow him access.

Ms. T. says that at that time the landlords were still expecting the tenants to be moving out. The original end of tenancy date in the tenants' notice had been extended by agreement to the end of September.

The landlords arranged for their pest control company to re-attend to check the tenants' suite. The pest company's receipt/report shows that the tenants' rental unit was inspected on October 17th. Bedbugs were found and so the company performed a treatment requiring the tenants to be absent from the premises for 24 hours.

Ms. T. says that at that time, October 17th, the tenants indicated they would be moved out within four or five days. However, four or five days later the landlords were served with the tenants' application for dispute resolution and the tenants remained in the premises.

Analysis

The initial burden is on a debtor to prove payment to his or her creditor. In landlord and tenant relations, that initial burden falls on the tenant. In this case the tenants' own handwritten letters to the landlord confirm the landlords' accounting of what has been paid and what is owed. I award the landlords \$50.00 for unpaid August rent after accounting for the \$350.00 security deposit, which the landlords factored in to their calculation. I award the landlords \$200.00 for unpaid September rent and \$1400.00 for unpaid rent or loss of rental income from the months of October and September.

I must deny the tenants' claim for compensation for any pest infestation. The reports of the landlords' pest control company confirm that the bedbug problem did not emanate from the landlords' portion of the home or from the adjacent suite. Even had it originate in James former accommodation the landlord would not have been directly responsible for it, James would have.

Conclusion

The landlords will have an order of possession as agreed. The landlords will have a monetary award of \$1650.00 plus the \$50.00 filing fee. There will be a monetary order against the tenants jointly and severally in the amount of \$1700.00.

The remainder of the tenants; claim 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: November 19, 2014

Residential Tenancy Branch

