



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNR, MND, MNSD & MNDC

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

The landlord attempted to serve the Application for Dispute Resolution/Notice of Hearing by mailing on August 29, 2014, by registered mail to where the tenant resides. The documents were returned by Canada Post with the notation unclaimed. The landlord subsequently discovered the tenant moved from that address a few months before. The landlord personally served the Tenant with the Application for Dispute Resolution/Notice of Hearing on September 27, 2014. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the landlord is entitled to a monetary order and if so how much?
- b. Whether the landlord is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into 14 fixed-term written tenancy leases for either a one year or shorter fixed term. The first lease provided that the tenancy would start on March 1, 1999. The last fixed-term lease is dated July 28, 2011 and provided that the tenancy would end on August 31, 2012. The tenant paid a security deposit of \$1137.50. The security deposit has been applied to outstanding rent in a previous hearing. The rent was \$2375. The tenant vacated the rental unit on August 12, 2012.

Preliminary Matter:

The tenant submitted the matter should be dismissed as he was served after the two year limitation period. Section 60 of the Residential Tenancy Act provides as follows:

Latest time application for dispute resolution can be made

- 60** (1) If this Act does not state a time by which an application for dispute resolution must be made, it must be made within 2 years of the date that the tenancy to which the matter relates ends or is assigned.
- (2) Despite the *Limitation Act*, if an application for dispute resolution is not made within the 2 year period, a claim arising under this Act or the tenancy agreement in relation to the tenancy ceases to exist for all purposes except as provided in subsection (3).
- (3) If an application for dispute resolution is made by a landlord or tenant within the applicable limitation period under this Act, the other party to the dispute may make an application for dispute resolution in respect of a different dispute between the same parties after the applicable limitation period but before the dispute resolution proceeding in respect of the first application is concluded.

The Act requires that the application be made within the two year period, not that it be served within the two year period. I find that the tenancy ended on August 31, 2012. The Application for Dispute Resolution was filed on August 25, 2014 which is within the two year period. I accept the submission of the landlord that he should be granted more time to serve the Application as he served it by registered mail to the latest known address of the tenant and address used he provided the City of Vancouver. The landlord personally served the tenant within a few days of receiving the returned documents. I do not accept the tenant's submission the application should be dismissed and I determined there was sufficient service.

The landlord seeks a monetary order for the cost of exterminating a significant bedbug problem based on the following evidence:

- The new tenant moved into the rental unit on September 24, 2012. On October 2, 2012 the new tenant reported bedbugs. The e-mail states the bed bug infestation is too severe. They found both mature and bedbugs in all three room. The landlord told the tenant hire a pest control company of their choice.
- The tenants hired a Pest Control Company who completed an extensive spraying of the rental unit. The invoice dated October 4, 2012 records "Fecal spotting seen on baseboards in upper bedroom – Existing Infestation." The landlord reimbursed the tenant \$907.20 for the cost of this treatment.
- The subsequent tenants produced evidence that they did not have a bedbug problem at their previous address.
- The previous work did not completely eradicate the bedbug problem. The landlord produced an invoice from another Pest Control Company confirming the bedbug problem continued to exist. It was recommended to the landlord that the property be given a heat treatment.
- The landlord produced an invoice dated December 8, 2012 in the sum of \$2128 from another environmental control company indicating they completed a heat treatment for bedbugs on the property.
- Throughout much of tenancy the tenant operated a moving and cartage company where he stored belongings.
- There are photos of debris, mattresses etc. that were left on the property for extensive periods of time.

The tenant denies he is responsible for the bedbug problem based on the following:

- He vacated the rental unit in late August. The landlord hired a cleaner that spent significant time cleaning the rental property and a painter who painted the property. None of these contractors made any comments of seeing bedbugs.

- The most likely explanation for the bedbug problem is that the subsequent tenants took the bedbugs in with them. He testified they moved from an area which experiences a bedbug problem.
- The landlord did not conduct a move-in or move-out inspection.
- The tenant denies seeing any bedbugs while there.

The Residential Tenancy Act provides the tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. The tenant 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 and is liable to compensate the landlord for failure to do so. In some instances the landlord's standards may be higher than what is required by the Act. The tenant is required to maintain the standards set out in the Act. The tenant is not required to make repairs for reasonable wear and tear. The applicant has the burden of proof to establish the claim on the evidence presented at the hearing.

Analysis

The applicant has the burden of proof to present sufficient evidence to establish a claim on a balance of probabilities. After carefully considering the disputed evidence I determined the landlord has established the bed bug problem was caused by the negligence of the tenant based on the following:

- The evidence of the Pest Control Company dated October 4, 2012 indicates there was an existing infestation.
- The severity of the infestation is more consistent with a long standing problem rather than a recent problem caused by the new tenants.
- I accept the evidence of the new tenants that they did not experience a bedbug problem prior to moving in.

- The tenant used the property as a moving company and there is a reasonable connection between the presence of bedbugs and the goods the tenants moved and/or disposed of.
- I do not accept the submission of the tenant that the failure of the cleaner or painter to notice bedbugs' means there was no bedbugs in the rental unit.

I determined the landlord had proven on a balance of probabilities that the bedbug problem was caused by the tenant.

Monetary Order and Cost of Filing fee

With respect to each of the landlord's claims I find as follows:

- a. I determined the landlord is entitled to the sum of \$902.20 for the cost of the invoice of the bedbug company which the landlord reimbursed the subsequent tenants.
- b. I determined the landlord is entitled to the sum of \$84 for the cost of the pest control company who inspected the rental unit and confirmed the presence of the bedbugs and recommended the heat treatment.
- c. I determined the landlord is entitled to \$2128 for the cost of the invoice from the environment solutions company for the heat treatment.
- d. I determined the landlord is entitled to the sum of \$500 for the amount of money he was required to reimburse the subsequent tenants.
- e. I determined the landlord is entitled to \$425.60 for the cost of cleaning. I am satisfied based on the evidence presented that the tenant failed to sufficiently clean the rental property.
- f. I dismissed the landlord's claim of \$280 for the cost of repairing damage caused by a roommate of the tenant. I am satisfied the tenant did not personally cause that damage and that the landlord entered into an agreement with the roommate for him to fix the problem.

In summary I determined the landlord has established a monetary claim against the tenant(s) in the sum of \$4039.80 plus the \$50 filing fee for a total of \$4089.80.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on the parties, unless otherwise provided under the Act and 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: March 27, 2015

Residential Tenancy Branch

