



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF,

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlord. Both files were heard together.

The tenant's application is a request for a monetary claim for \$5884.99 and a request for recovery of the \$50.00 filing fee.

The landlord's application is a request for a monetary order for \$4823.43 and a request for recovery of the \$50 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

The issues are whether or not the landlord or the tenant has established monetary claim against the other, and if so in what amount.

Tenant's application

Background and Evidence

The tenant has argued that:

- The landlord failed to adequately deal with a bed bug infestation in the rental property.
- They first discovered a bed bug in the master bedroom on September 9, 2013; however they had been experiencing nocturnal bites since July 2013 but did not know what was causing them.
- They arranged to have a bed bug inspection done on September 12, 2013 and at that time, although no bed bugs were found in their suite, it was found that there was a significant infestation in the downstairs suite's. They subsequently paid \$89.99 for this inspection.
- At first the landlord refused to accept responsibility, however on September 25, 2013 they delivered a letter to the landlord stating that according to the Residential Tenancy Branch it was his responsibility to deal with the infestation.
- On September 27, 2013 the landlord's arranged for an exterminator who subsequently came on October 3, 2013 and applied a pest-control product in all the suites of the house.
- On October 16, 2013 they requested that the landlord do a follow-up treatment as this is a standard procedure with this type of extermination method.
- The landlord told her she should contact the extermination company directly and deal with them for a follow-up treatment however when she did so extermination company was very rude to her and told her that a follow-up treatment was not required.
- They continued to get bites intermittently from November 2013 through May 2014 and therefore on May 17, 2014 they delivered a letter to the landlord stating that their request for a follow-up treatment had been met with insufficient intervention and that they would like action taken as soon as possible.
- Since the landlord continued to fail to take proper action, they decided to vacate the rental unit and gave notice to end the tenancy at the end of July 2014.
- On July 25, 2014 they had all of their belongings heat treated in the back of a moving trailer by local pest-control company and they paid for that service themselves to ensure that none of the bedbugs would be transferred to their new location.
- When they vacated they agreed to a total of \$146.68 in deductions from their security deposit, however on August 15, 2014 they received a cheque from the

landlord, and the landlord had deducted a further \$200.00 for alleged damages to the rental unit. They never agreed to any further deductions.

The tenant is therefore requesting a monetary order as follows:

Original bed bug inspection cost	\$89.99
Heat treatment of belongings on moving	\$1155.00
High-temperature cleaning of their belongings	\$20.00
Garbage bags store and transport laundered items	\$20.00
Three-months rent for loss of quiet enjoyment and stress	\$3900.00
Tenants time for communication and research	\$500.00
Unauthorized security deposit deduction	\$200.00
Filing fee	\$50.00
Total	\$5934.99

The landlords argued that:

- They don't believe there was any negligence on the part of the landlord and therefore do not believe that the tenant has any claim.
- The entire property was professionally treated by an exterminator shortly after her claims of bedbugs came forward even though there was no proof of any infestation in this tenant's suite.
- He even authorized the tenant to make arrangements herself for a follow-up treatment with the exterminators however since he heard nothing further from the tenant about it, and was not billed by the extermination company he assumed she decided not to contact them
- A further inspection of May 2014 again failed to find a single bed bug in the applicant's upstairs suite and found only one bedbug in one of the downstairs suites.
- No one else in this rental property has reported any bedbug issues over the entire eight-month timeframe and therefore he fails to see what further actions he could have taken.
- He did provide the tenant with sticky traps in an attempt to see if any bedbugs could be found and although the tenant has now supplied a photo showing

bedbugs in a dish, nothing was provided to the landlord prior to being submitted as part of this application.

- He believes the tenant was convinced that no treatment would work other than a high heat treatment that she wanted to use a, and therefore was unwilling to accept the recommendations of his pest-control professional.
- Further, the tenant did agree to deductions from the security deposit totaling \$146.68; however he found significant damages as well and therefore deducted a further \$200.00 which is far less than the actual cost of the damages.
- He therefore does not believe that he should have to pay anything further to the tenant.

Analysis

Is my finding that the tenant is not met the burden of proving that there was any negligence on the part of the landlord.

I find that the landlord responded within a reasonable timeframe after being notified of the tenant's concerns of bedbugs in the rental property.

The landlord arranged for an extermination company to do a treatment in the rental property, even though no actual bedbugs had been found in this tenants unit.

The landlord also authorize the tenant to contact the extermination company to do a follow-up treatment, and although the tenant states that she did contact the company and was treated rudely, there is no evidence to show that she ever inform the landlord of her inability to get the extermination company to do a follow-up treatment.

Further although the tenant claims that the landlord's response in May of 2014 was inadequate, the landlord did provide a bug trap and sticky traps to attempt to find if there were still bedbugs in the rental property, and I find that to be a reasonable response.

I therefore deny the tenants request for claims relating to the problems with bedbugs.

The security deposit however is a different matter.

The Residential Tenancy Act states that, if the landlord does not either return the security deposit, get the tenants written permission to keep all or part of the security deposit, or apply for dispute resolution within 15 days after the later of the date the

tenancy ends or the date the landlord receives the tenants forwarding address in writing, the landlord must pay the tenant **double** the amount of security deposit.

In this case the landlord kept more of the security deposit than the tenant had agreed to, and the landlord did not apply for dispute resolution, within the time limit set out under the Residential Tenancy Act, to keep any more of tenant's security deposit.

The landlord return \$453.32 to the tenant which would cover the \$200.00 pet deposit, and \$253.32 of the security deposit however since the tenant had only authorized the deduction of \$146.68 from the security deposit, the landlord should have returned \$453.32 of the security deposit as well as the pet deposit, for a total of \$653.32

This tenancy ended on July 31, 2014 and the landlord had a forwarding address in writing by August 2014 and there is no evidence to show that the tenant's right to return of the deposit has been extinguished.

Therefore even though the tenant has not applied for double the security deposit, I am required to order that the landlord must pay double the amount of the security deposit to the tenant.

The tenant paid a security deposit of \$600.00, and therefore the landlord must pay \$1200.00 minus the \$253.32 that is already been returned, for a total of \$946.68.

I also allow \$50.00 of the filing fee to be paid by the landlord.

Landlord's application

Background and Evidence

The landlord is claiming that the tenant left this rental unit in need of significant cleaning and repairs at the end of the tenancy however the tenant denies these claims, and testified that the rental unit was left clean and with no repairs needed beyond normal wear and tear.

Both the landlord and the tenant state that a move in inspection report and a move out inspection report were done, however the landlord has failed to supply copies of those reports

The landlord has provided some photo evidence in support of his claim, however the tenant also disputes that evidence, and questions when the photos may have been taken.

Analysis

In the absence of the move out inspection report, I am unable to determine whether the landlord indicated a need for further cleaning or repairs to the tenant at the time of the move out inspection.

Further in the absence of copies of both the move in inspection report and move out inspection report I am unable to determine whether there is any significant difference in the condition of the unit between the move-in date and the move-out date.

Therefore, other than the photos, it is basically just the landlord's word against that of the tenant as to the condition of the rental unit when the tenant vacated.

As stated above the landlord has provided photo evidence; however I have no way of knowing when the photos were taken or whether they accurately represent the condition of the rental unit at the end of the tenancy, especially since the tenant has argued that they do not.

The burden of proving a claim lies with the applicant and when it is just the applicants word against that of the respondent that burden of proof is not met, and therefore in this case it is my finding that the applicant has not met the burden of proving that the rental unit was left in need of cleaning and repairs, beyond normal wear and tear.

Further, I find it unlikely that the landlord would have returned all but \$200.00 of the tenant security deposit at the end of the tenancy, had there really been a total of \$4823.43 in cleaning and repairs required.

Conclusion

Tenants claim

I have allowed \$996.68 of the tenants claim and have issued a monetary order for the landlord to pay that amount to the tenant.

The remainder of the tenants claim is dismissed without leave to reapply.

Landlords claim

The landlords claim is dismissed in full without leave to reapply.

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: April 16, 2015

Residential Tenancy Branch

