



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BAYSIDE PROPERTIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC FF

Introduction

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) To obtain compensation for losses suffered due to bed bug infestation pursuant to sections 28, 32 and 67; and
- b) To recover filing fees for this application pursuant to section 72.

Service:

The tenant /applicant gave evidence that they personally served the Application for Dispute Resolution and the landlord agreed they received it. I find the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probability that they are entitled to compensation for an infestation of bed bugs in their unit? If so, to how much compensation and are they entitled to recover filing fees?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced on May 15, 2014, it is now a month to month tenancy, rent is \$950 a month and a security deposit of \$475 and a pet damage deposit of \$475 were paid.

The tenant claims \$1750 in compensation for furniture that they were forced to discard due to bed bug infestation and for the laundry they had to do because of the infestation of their unit. They said they saw bed bug bites on June 30, 2014 but thought they were mosquitoes. They waited until about September 1, 2014 to inform the building manager as they had done some research and had friends notice the bites so realized they were bed bug bites. They said the landlord arranged inspections and treatments within one week. In evidence are reports from the Pest Control Company for September 11, 19, 26, and October 24, November 4, 19, 21, 23, 26, December 5 and December 30, 2014.

On October 24, 2014, the report noted no bed bugs but on November 4, 2014, bugs were found on everything and they suggested the tenants get rid of items. On December 5, 2014, and December 30, 2014 no bed bugs were noted and also on May 4, 2015 but the tenants said they found another one but have no bites now. The tenants claim \$1750 in damages, mainly from estimates from a furniture website. The only item they have actually purchased for replacement is the mattress (\$350 claim).

The landlord said they take bed bug reports as serious issues and get a reputable Pest Control company immediately. They said that their reports show as of January 30, 2015, the unit is clear and there are none since. They said they treat all the surrounding units too after a report and the Pest Control company recommends tenants get rid of badly infected items. They said the problem with this Application is that the tenants are not able to prove they did not bring in the bugs themselves on shoes or purses or some item. They also have pets. Apparently the unit in which the tenant resides had been occupied for 3 years prior to them moving in and there had been no complaints of bed bugs. Two other units in the building had had reports of bed bugs and had been treated and there had been no other reports for about 3 to 5 months before these tenants moved in. The landlord pointed out that the tenants had moved in May 1, 2014 and had lived in the unit for 4 months before reporting there were bed bugs. They say that this supports their position that the tenants, visitors or pets carried them into the unit. They also said they relied on the reports from their Professional Pest Control Company who reported the unit was free of bed bugs using a K-9 unit and other means on at least two occasions but the tenants found they had bites and bugs afterwards which suggests they may be getting bitten elsewhere. The landlord notes that the tenants have provided no invoices of actual costs of replacement furniture or for washing items.

Included with the evidence are letters from a former landlord stating the tenants had no bed bug issues there, emails regarding bed bugs, photographs, the tenancy agreement and pest control reports. All evidence was considered although only evidence relevant to the decision is quoted.

Analysis:

Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

The onus is on the applicant tenant to prove on a balance of probabilities that the landlord violated the Act, regulations or tenancy agreement and they are entitled to compensation for resulting losses. Section 32 of the Act requires a landlord to maintain the property in compliance with health, safety and housing standards required by law. I find the weight of the evidence is that the landlord responded promptly to their report of bed bug activity in their unit. I also find the landlord's evidence credible that they had had no bed bug activity in the building for 3 to 5 months prior to the tenants' occupancy and had had no bed bug activity in the tenants' unit in the 3 years prior to their occupancy. I find this supports the landlord's submission that the tenants, their visitors or pets may have inadvertently carried bed bugs into the building. I find the tenants lived in the unit for 4 months before reporting any bed bug activity and the landlord responded diligently to the report and treated regularly until the unit was reported clear on December 5, 2014. I find a subsequent inspection on December 30, 2014 reported again the unit was clear. The fact that the tenants say they found more bugs and had some bites on April 29 and May 16, 2015, I find also supports the landlord's position that they may be getting bites or they or their visitors or pets must be picking up bugs elsewhere. I find the tenants did not prove that they had to throw out furniture and pay for covers for mattresses due to any act or neglect of the landlord.

As the tenants have not satisfied the onus of proving on a balance of probabilities that the bed bug infestation was a result of a violation of the Act or tenancy agreement by the landlord and their losses were a result of such violation, I find they are not entitled to compensation from the landlord for their losses.

Conclusion:

I dismiss the application of the tenants in its entirety without leave to reapply and find them not entitled to recover the filing fee due to their lack of success.

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 23, 2015

Residential Tenancy Branch

