



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing was convened to address a claim by the tenant for a monetary order. Despite having been served with the application for dispute resolution and notice of hearing sent via registered mail on October 14, 2014, the landlord did not participate in the conference call hearing. I was satisfied that the landlord had notice of the hearing and of the claim against them and the hearing proceeded in their absence.

Issue to be Decided

Is the tenant entitled to a monetary order as claimed?

Background and Evidence

The tenant's undisputed evidence is as follows. The tenancy began in November 2011 and monthly rent was set at \$375.00. The rental unit is a single room on the first floor of a building in which the tenants share common washrooms.

The tenant testified that when he moved into the rental unit, he noticed the occasional bedbug, but as this did not cause him concern, he did not report the issue to the management. In November 2013, he began awaking to find himself having been bitten numerous times and at that point, reported to the building management that his unit was infested with bedbugs and requested treatment. The tenant stated that the building manager in place at the time ignored his repeated requests. In March 2014, a new manager began working in the building and when the tenant complained to him about the bedbugs, the new manager treated the rental unit. The tenant seeks the return of his rent for the 5 months in which the previous manager ignored his request for treatment.

The tenant testified that the men's shower on the floor on which the rental unit is situated encountered plumbing issues and was shut down. Male tenants on the first floor were directed to use the men's shower on the third floor of the building. However, a female occupant of the third floor (the "Complainant") had accused the tenant of sexual assault in April 2014, an accusation which led to the tenant's arrest. The tenant stated in his written evidence that the allegations were "dismissed in court due to lack of evidence" but in his oral testimony he stated

that charges were not brought against him. He testified that he has a hearing scheduled in October 2015 to address the crown's petition for a peace bond against him.

The tenant testified that the management of the building directed him to use the women's washroom to shower because they did not want him on the same floor as the Complainant and when he used the women's washroom, management placed a sign on the washroom door stating that the tenant was inside. The tenant stated that another occupant told other building residents that the reason the tenant could not use the men's washroom was because the Complainant had accused him of sexual assault.

The tenant testified that having to use the women's washroom has caused him extreme embarrassment. He said that whenever he encounters other tenants, they call him pejorative names and even though his tenancy has ended, the stigma has remained.

The tenant seeks the return of his rent from May 2014 – August 2014, which is the period in which he was unable to use the men's shower. He also seeks aggravated damages.

Analysis

The tenant bears the burden of proving his claim on the balance of probabilities. The *Residential Tenancy Act* (the "Act") establishes the following test which must be met in order for a party to succeed in a monetary claim.

1. Proof that the respondent failed to comply with the Act, Regulations or tenancy agreement;
2. Proof that the applicant suffered a compensable loss as a result of the respondent's action or inaction;
3. Proof of the value of that loss; and (if applicable)
4. Proof that the applicant took reasonable steps to minimize the loss.

Section 32(1) of the Act requires landlords to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and makes it suitable for occupation by a tenant. I find that the landlord had an obligation to begin treatment of the rental unit for bedbugs as soon as they learned of the issue. I accept the tenant's undisputed testimony and I find that the tenant reported the issue to the landlord in November 2013 but the landlord did not commence treatment for 5 months. I find that the tenant suffered a loss of quiet enjoyment as a result of the landlord's failure to treat the unit. However, the tenant did not claim that he was unable to use the rental unit during this period but merely stated that he was bitten by the bedbugs. I find that a return of all of the tenant's rent would be inappropriate and instead find that an award of 20% of his rent for that 5 month period will provide adequate compensation. I award the tenant \$375.00.

The landlord had an obligation to the tenant to provide shower facilities and for some reason, did not repair the men's shower on the first floor but chose to redirect tenants to other floors. I find that this in itself caused an inconvenience to the tenant which would not be compensable

over a short period of time, but presented a significant inconvenience as it lasted for 4 months. The landlord also had an obligation to provide all tenants with quiet enjoyment of their rental units, including the Complainant. In light of the accusations brought by the Complainant and the fact that the crown is pursuing a peace bond against the tenant, I find that the landlord acted reasonably in requesting that the tenant use the women's washroom on the second floor rather than using the third floor washroom. I find insufficient evidence to show that management had any involvement in the gossip which seems to have spread through the building and as the tenant identified the source of that gossip as another occupant, I find that the blame for the reaction of the other tenants cannot be laid at the feet of the landlord.

I find that the tenant endured an inconvenience because the first floor washroom was not repaired within a reasonable time and I find that he is entitled to compensation for those 4 months at a rate of 10% of his rent. I award the tenant \$150.00.

I dismiss the tenant's claim for aggravated damages. Residential Tenancy Policy Guideline #16 states that aggravated damages are designed to compensate the person wronged for aggravation caused by the wrongdoer's wilful or reckless indifferent behaviour. I am unable to find that the landlord's behaviour can be described as wilful or recklessly indifferent as I find the landlord had very limited options to balance the rights of the tenant against the rights of the Complainant.

Conclusion

The tenant is awarded a total of \$575.00 and I grant him a monetary order under section 67 for that sum. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

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 03, 2015

Residential Tenancy Branch

