



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Complete Residential Property Management Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNDC, FF

Introduction

This hearing dealt with an application by the landlord for a monetary order. Both parties participated in the conference call hearing.

Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

Background and Evidence

The parties agreed that the tenancy began on December 15, 2005 and that the rental unit is an apartment on the first floor of a multi-story building.

The landlord testified that in March 2014, the occupant of the apartment immediately above the rental unit reported that he saw cockroaches in his apartment. The landlord arranged for that apartment to be treated and arranged for the pest control technician to inspect the other units in the building as well. The technician reported that in most of the units inspected, there was no evidence of cockroaches and just a few in the apartment which was the subject of the complaint, but that inside the rental unit, cockroaches were found “behind pictures frames, in cupboards, behind the fridge and stove and visible crawling on the walks”. (*reproduced as written*)

The landlord testified that the rental unit was treated twice in March and on April 23, May 23 and in June. Another apartment was also treated on one occasion. The landlord testified that since they began managing the building in 2006, there have been no incidences of cockroach activity and they alleged that the tenant caused the infestation. The landlord advised the tenant on a number of occasions that he would be held financially responsible for the cost of treating the building for the infestation. In a letter dated November 24, 2014, the landlord again demanded payment and quoted the pest control company as follows:

There was still some evidence of cockroaches in the suite. I think the reason that it is difficult to get under control is because the kitchen is still filthy with food spills

and the bedroom is piled up with stuff. ... Not sure if there is any point of treating the suite again until its cleaned out thoroughly." (*reproduced as written*)

The landlord alleged that the rental unit was kept in a condition that attracted the cockroaches and was extremely cluttered and unclean. The landlord seeks to recover \$824.25 as the cost of treating the building for cockroaches as well as the \$50.00 filing fee paid to bring their application.

The tenant insisted that he was not responsible for the cockroach infestation and argued that if he was responsible for the infestation, the landlord had failed to mitigate their losses by failing to tell the tenant to clean up the rental unit to avoid an infestation. He claimed that he was not living in the unit full time in 2013-2014 and said that he feels that he is being harassed by the landlord because the landlord has continued to insist on regular inspections of the rental unit.

Analysis

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
4. Proof that the applicant took reasonable steps to minimize the loss.

Sections 32(2) & 32(3) of the Act provide as follows.

32(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

32(3) A tenant of a rental unit 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.

The information provided by the pest control company clearly states that the rental unit had a significant infestation whereas only 2 other units were mildly affected by cockroaches, each requiring just one treatment. I accept that the statement quoted in the landlord's letter of November 24 accurately represented the pest control company's opinion that the rental unit was unclean. Given the fact that the infestation was heaviest in the rental unit and the state of the unit was described by the technician as cluttered and unclean, I find it more likely than not that the infestation began in the rental unit and I find it more likely than not that the tenant's failure to maintain the unit in a reasonably clean condition led to the infestation. I find that the tenant breached section 32(2) of the Act as quoted above and I find that the landlord suffered a compensable loss as a result in the amount of \$824.25.

I do not accept the tenant's argument that the landlord failed to mitigate their losses by failing to advise the tenant to clean his unit. The infestation was already significant by the time the building was treated for the first time in March and on March 19, the landlord wrote a letter to the tenant advising that in their opinion, the severity of the infestation was due to the negligent state of the rental unit. On April 7, the landlord wrote another letter in which they gave the tenant a deadline by which he had to rid his unit of excess items and arrange for carpet cleaning. In that letter, the landlord also thanked the tenant for the work he had done up to that point in removing those excess items. It is clear to me that before the second treatment for which they were billed, the landlord communicated to the tenant that he had to clean the unit. I find that the landlord acted reasonably to mitigate their losses.

I find the fact that the tenant was not living in the unit part of the time in 2013 – 2014 to be irrelevant as there is no evidence indicating that it was the physical presence of the tenant that caused the infestation. Rather, all the evidence suggests that the infestation began because of the cluttered and unclean living environment in the rental unit.

I find that the landlord has met the test to establish their claim and I find they should recover the cost of treating the infestation as well as the \$50.00 filing fee. I award the landlord \$874.25 and I grant them a monetary order under section 67 for this sum. I order the tenant to pay this sum to the landlord forthwith. The monetary order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$874.25.

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: August 18, 2015

Residential Tenancy Branch

