



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, ERP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution (the “Application”) made by the Tenant for the Landlord to comply with the *Residential Tenancy Act* (the “Act”), regulation or tenancy agreement. The Tenant also applied for the Landlord to make emergency repairs for health reasons.

The Tenant appeared for the hearing and provided affirmed testimony as well as documentary evidence in advance of the hearing. There was no appearance by the Landlord during the 34 minute duration of the hearing and no submission of written evidence prior to the hearing. As a result, I turned my mind to the service of documents for this hearing by the Tenant. The Tenant testified that he served a copy of the Application, the Notice of Hearing documents and his evidence personally to the Landlord on July 6, 2015. Based on the undisputed evidence of the Tenant, I find the Landlord was served pursuant to Section 89(1) (a) of the Act. As a result, I continued to hear the undisputed evidence of the Tenant as follows.

The Tenant had not selected the box asking for monetary compensation on his Application. However, in the details section of the Application, the Tenant states that he applies for monetary compensation as detailed in an accompanying Monetary Order Worksheet. As a result, I find that the Landlord had been put on sufficient notice of the Tenant’s monetary claim which I continued to deal with in this hearing.

Issue(s) to be Decided

- Is the Tenant entitled to an order requiring the Landlord to make repairs and comply with the Act?
- Is the Tenant entitled to monetary compensation for failure of the Landlord to do repairs and provide services?

Background and Evidence

The Tenant testified that this tenancy began on June 1, 2014 for a fixed term of three months, after which it continued on a month to month basis. The Tenant provided a written tenancy agreement for the rental suite which establishes rent payable in the amount of \$750.00 on the first day of each month. The Tenant paid a \$375.00 security deposit for the tenancy.

The Tenant testified that when he first moved into the rental suite he was informed that it had air conditioning and came with wireless internet service. The Tenant testified that about a month into the tenancy, the air conditioning stop working and when he informed the building manager of this, he was told to purchase a fan.

The Tenant explained that he had not had air conditioning before and therefore did not know how to fix the air conditioning unit in the rental suite. As a result, he purchased a fan and did not become aware that the Landlord was responsible for fixing this until a month prior to making the Application. The Tenant testified that it gets really warm in the summer and this has made it difficult to get air flow into the rental unit and get sleep during the hot nights.

The Tenant testified that the wireless internet service promised to him at the start of the tenancy does not work properly and is nonexistence or sporadic for several days at a time. The Tenant explained that he has addressed this issue verbally with the building manager on several occasions. The Tenant testified that the building manager gets unqualified people to look at the problem but the Landlord informing him that it is costly to get professionals to fix it.

When the Tenant was asked whether wireless internet service was documented in the tenancy agreement, the Tenant explained that it was. However, the Tenant testified that it did not appear on the copy he provided as evidence because the Landlord had removed the first page of the tenancy agreement, which had been completed at the start of the tenancy by the Landlord's agent, and included a revised version which did not show that internet was included.

The Tenant confirmed that he was given a wireless password at the start of the tenancy to access the internet in his rental suite. The Tenant also testified that the rental suite was advertised, and still is advertised, on local websites with wireless internet shown as included. The Tenant also testified that the hotel messaging service also indicates that wireless internet is included with all suites.

The Tenant then testified that the Landlord has failed to take any action against bed bugs that spread to his rental unit from neighbouring units in the same building. The Tenant testified that this occurred approximately one and half months before he made the Application. The Tenant testified that there are several rooms that neighbour him that are heavily infected with bed bugs. The Tenant submits that the Landlord's failure to do anything about these infected neighbouring units has caused the spread of them to his unit.

The Tenant testified that he has been extremely affected by the bed bugs as he is continuously being bitten at night and cannot get sleep. The Tenant testified that he has had to purchase bed bug spray to control them but this is not enough. The Tenant provided a receipt showing the purchase of bags which the Tenant is using to protect his clothing. The Tenant explained that he wants to move out of the rental unit but has been unable to find suitable alternative accommodation.

The Tenant explained that the situation got so bad that he approached an advocacy agency who wrote a letter for him on his behalf. The letter dated June 22, 2015 was provided into evidence. The Tenant's advocate writes about the Landlord's requirement to deal with the bed bug issues, and provide wireless internet services as required by the Act. The letter also requests the Landlord to ensure that the rental unit door is not left unlocked after inspections of the unit are completed. The letter concludes requesting that the Landlord respond in writing by June 26, 2015 to advise of the steps to be taken to rectify the issues detailed in the letter.

The Tenant testified during the hearing that despite the letter of June 22, 2015, the Landlord has failed to respond in writing to his advocate and has also failed to rectify any of the issues above. As a result, the Tenant now seeks to claim half a month's rent for June 2015 due to the bed bugs and \$50.00 each for the 12 months he has been without adequate wireless internet service, for a total of \$1,425.00. While, the Landlord wanted to claim for losses for the lack of air conditioning in the rental unit, this was not indicated on the Tenant's Monetary Order Worksheet. The Tenant explained that he did not claim for any loss associated with this as it only recently came to his attention that the Landlord was responsible for fixing it.

Analysis

I have examined the Tenant's undisputed testimony and documentary evidence and make the following findings based on a balance of probabilities.

Section 32(1) of the Act requires a Landlord to provide and maintain residential property in a state of decoration and repair that complies with the law and makes it suitable for occupation by the Tenant.

I am satisfied by the Tenant's undisputed oral evidence that the rental unit is being affected by bed bugs and that these originated from neighbouring units which the Landlord failed to adequately deal with. I accept that the Tenant put the Landlord on written notice of this issue in a letter which was personally served to the Landlord on June 22, 2015. I also accept the Tenant's testimony that the Landlord has since failed to do any investigation or treatment to the Tenant's rental unit to provide relief to the Tenant. Therefore, the Landlord is ordered to undertake appropriate investigation and treatment of the bed bugs.

In relation to the lack of wireless internet services, I accept the undisputed testimony of the Tenant that wireless services were included as part of this rental unit. Although the tenancy agreement does not stipulate this, I accept the Tenant's undisputed testimony that he had signed an agreement that included wireless internet as part of the agreement. I also base this decision on the Tenant's undisputed testimony that units in the same building are currently marketed as including internet services and that the Tenant was given a wireless password at the start of the tenancy; this would suggest that wireless internet service was included as part of this tenancy.

I find that the Landlord was put on written notice of the wireless internet issue in the letter dated June 22, 2015 and since this time, this issue has not been rectified. Section 27(2) of the Act requires that a landlord may terminate or restrict a service if the landlord gives 30 days' written notice in the approved form and reduces the rent to reflect the lost value of the service. Based on the foregoing, I order the Landlord to provide adequate wireless internet service to the Tenant or follow the requirements of Section 27(2) of the Act.

In relation to the repair of the air conditioning unit, I accept the Tenant's undisputed oral testimony that there exists an air conditioning unit in the rental suite which is not functioning. Pursuant to Section 32(1) of the Act, the Landlord is ordered to repair the air conditioning unit in the rental suite.

As the Landlord failed to appear for the hearing, there was no opportunity to schedule a reasonable time to complete the above repairs. The above repairs, particularly the treatment of bed bugs, are a serious matter in tenancies that requires diligent and timely action. I find that this is an emergency repair as it is necessary for the health of the Tenant and his use of the rental unit. Therefore, I order the Landlord to complete the

above repairs by the end of August 2015. If the Landlord fails to complete the above repairs by this deadline, the Tenant is at liberty to apply for a continuing rent reduction until the repairs are completed which would reflect the breach of the Act by the Landlord.

In relation to the Tenant's request for the Landlord to comply with the Act in locking the rental unit door after the Landlord completes an inspection of the rental suite, the Tenant offers insufficient evidence that this is the case. Therefore, I dismiss this portion of the Tenant's Application. However, the Landlord is cautioned that if an inspection of the rental suite is completed, the Tenant must be given proper written notice of such an inspection. This then provides the Tenant an opportunity to be present or have someone present at the time of the inspection. If no person is present during the inspection, the Landlord must lock and secure the rental suite door after such an inspection is completed.

I now turn my mind to the Tenant's monetary claim. The Tenant put the Landlord on written notice of the bed bug problems and the lack of wireless internet services in the letter dated June 22, 2015. Since this time the Landlord has failed to take any action to remedy these issues. Therefore, I find that the Tenant is to be compensated for the period of June 22, 2015 to the date of this hearing, August 5, 2015. In this respect I find the Tenant is to be more appropriately compensated in the amount of one months' rent of \$750.00 relating to this period of time. Any future compensation due to the Tenant maybe achieved through an Application for continuing rent abatement.

In relation to the Tenant's claim for 21 months of \$50.00 for the lack of internet services, I turn to Section 7(2) of the Act which requires a party making a claim for compensation to mitigate loss. While the Tenant testified that he had verbally informed the Landlord of the lack of internet services during the tenancy, I find this is not sufficient to put the Landlord on notice of this issue. I find the Tenant failed to take adequate steps to deal with this issue, such as contacting an advocate, contacting an Information Officer, or pursuing the matter through dispute resolution. As a result, many months elapsed before this matter was brought to the attention of the Landlord by the Tenant's advocate in writing. Therefore, I deny the Tenant's claim for loss of wireless services for the period before the Landlord was put on written notice of this issue.

I also apply the same findings in relation to the Tenant's verbal monetary claim during the hearing for the lack of air conditioning in the rental suite. I find no evidence before me that the Landlord has been put on written notice of the air conditioning issue. In the alternative however, I have put the Landlord on notice now of this issue and the Landlord is to comply with the order above to repair the air conditioning unit. The Tenant

will receive relief if the Landlord fails to rectify this issue through an Application for continuing rent abatement.

Based on the foregoing, I order the Tenant to withhold rent for September 2015 to achieve monetary relief for the lack of action taken by the Landlord to date in relation to the above issues. The Tenant may provide a copy of this Decision when September 2015 rent is payable. In the alternative, the Tenant is issued with a Monetary Order with his copy of this Decision in the amount of \$750.00. The Tenant can enforce this order through the Small Claims Court if the tenancy were to end before September 2015.

Conclusion

The Landlord has failed to complete repairs in this tenancy. The Landlord is ordered to treat the Tenant's rental suite for bed bugs, repair the Tenant's air conditioning unit, and provide the Tenant with adequate wireless service or reduce rent accordingly. This must be completed by the Landlord by the end of August 2015. If this is not, then the Tenant is at liberty to apply for a rent reduction through dispute resolution in an effort to get the Landlord to comply with the Act.

The Tenant's monetary claim for compensation is granted in the amount of \$750.00. The Tenant may achieve this by withholding rent for September 2015. The remainder of the Tenant's monetary claim is dismissed. The Landlord is cautioned to lock the Tenant's door after completing suite inspections.

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 05, 2015

Residential Tenancy Branch

