



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HFBC Housing Foundation
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNL, MNDC, OLC, RP, PSF, RR

Introduction

This was a hearing with respect to an application by the tenant. The hearing was conducted by conference call. The tenant and the landlord's named representatives called in and participated in the hearing.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?
Should the landlord be directed to comply with the Act, Regulation or tenancy agreement?
Should the landlord be ordered to make repairs?
Should the landlord be ordered to provide services or facilities required by law?
Should the tenant be granted a rent reduction?
Should the 2 month Notice to End Tenancy dated August 7, 2015 be cancelled?

Background and Evidence

At the outset of the hearing the landlord's representatives advised that the landlord wishes to withdraw the two month Notice to End Tenancy given to the tenant and that the landlord is not seeking to end the tenancy. Based on the landlord's submissions I find that the Notice to End Tenancy dated August 7, 2015 is cancelled and this tenancy will continue until ended in accordance with the *Residential Tenancy Act*.

The rental unit is an apartment in the landlord's subsidized housing facility in Vancouver for the mentally ill. The tenancy began on November 14, 2014. The monthly rent payable by the tenant is \$480.00.

The tenant said that she moved into the rental unit on November 1st. The tenant said that after she moved in she saw tenant notices posted in the elevator containing comments that the entire building was infested with bedbugs and stating that the

landlord was not properly treating the infestation. The tenant said that she started getting bitten by bedbugs. She called the landlord's building manager to report the problem. The tenant said that the landlord did not conduct an immediate inspection. Bedbugs were found in the rental unit during an inspection on November 23rd, 2014. The pest control company performed a treatment on December 2, 2014. The tenant claimed that the landlord failed to perform the necessary follow-up treatment and failed to fumigate the surrounding suites. The tenant said that the landlord has been negligent in treating the bedbug problem in her unit and in the building as a whole. The tenant claimed that the landlord knew there was a bedbug problem and allowed her to move in without telling her of the problem. She said that the landlord tried to discourage her from getting the problem treated because the landlord's representative told her when she reported the problem that unless the professional pest control technician confirmed the infestation then the tenant would have to pay for the inspection.

The tenant made the following monetary claims:

• New mattress & box spring infested with bedbugs:	\$751.09
• Bedbug mattress cover:	\$50.37
• Psychology appointment anxiety treatment:	\$160.00
• Psychological services bedbug anxiety:	\$160.00
• Home Depot, bedbug supplies; vacuum filter garbage bags caulking gun, tape, etc. :	\$178.72
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• Psychological services bedbug anxiety, coping strategies:	\$160.00
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• Canadian Tire; vacuum with hepa filter:	\$618.78
• Garbage bags cleaning bucket, bedbug dust:	\$33.99
• New uninfected pillow:	\$22.39
• BC ambulance service, severe panic attack:	\$80.00
• Psychological services bedbug anxiety:	\$160.00
• Psychological services bedbug anxiety:	\$160.00
• BC 2 nd bill for ambulance service:	\$80.00
• Counselling session bedbug anxiety & assertiveness training:	\$50.00
• Canadian tire electrical outlet plugs to prevent bedbug access:	\$6.36
• Counselling session to dealing with anxiety and landlord resistance	\$50.00
• Therapy session anxiety and coping techniques:	\$50.00
• Journals purchased to help with coping:	\$23.45
• Pillows and bedbug pillow covers:	\$52.54
• Purchase of replacement bedding:	\$156.78

• Counselling session:	\$40.00
• Counselling session:	\$40.00
• Bedbug travel spray:	\$9.50
• Bedbug dust diatomaceous earth:	\$11.19
• Counselling session:	\$40.00
• Counselling session:	\$40.00
• Counselling session:	\$40.00
• Counselling session:	\$40.00
• Replacement duvet and two pillows:	\$235.17
• Counselling session:	\$40.00
• Counselling session:	\$40.00
• Refund of rent paid during tenancy:	\$7,714.00
• Laundromat charges to wash & dry infested clothes bedding, towels, etc.	\$783.20
• Dry cleaners charges:	\$33.08
 Total:	 \$12,270.61

The tenant claimed that the landlord allowed her to move in despite knowing of the bedbug infestation. She claimed that the landlord's treatments were inadequate. She referred to e-mail messages from other occupants in support of her position. The tenant said that the landlord failed to treat surrounding units and she described the landlord as negligent and said that the landlord breached its duty under section 32 of the *Residential Tenancy Act*, namely: its obligation to provide and maintain the unit in a state that complies with, health, safety and housing standards.

The tenant said that the landlord's treatments were unsuccessful and the bedbugs returned and had to be re-treated. The tenant claimed that the landlord's pest control company was incompetent; she claimed that they performed an inspection of the rental unit on July 31st and ripped open the mattress cover she installed and this allowed any bedbugs trapped inside the mattress to escape and also allowed other bedbugs to enter the mattress and lay more eggs. She said the landlord should be required to pay an additional \$50.37 for another mattress cover.

The landlord submitted documents with respect to the tenancy and the inspection and treatment of bedbugs in the rental unit and in the rental property as a whole. The landlord's representatives submitted that the landlord has acted promptly and properly in dealing with the bedbug issues in the rental property. The landlord submitted documents to show that its pest control company is licenced and professional. The landlord submitted a letter from the pest control firm dated August 10, 2015 setting out the treatments and inspections carried out in the rental unit. As well, the landlord provided records showing the inspections and treatments undertaken by the pest

company with respect to other units in the rental property. The firm reported that the rental unit was inspected and sprayed on December 2, 2014. There was a second follow-up spray treatment on December 19th in accordance with protocol. The rental unit was inspected on February 5, 2015 and no live or dead bedbugs were detected. On April 6th an inspection was conducted and no bedbugs were found in the rental unit. On May 22, 2015 the rental unit was sprayed for a third time at the tenant's request and on June 9th the rental unit received a fourth spray. On July 31st the entire building consisting of 49 units was inspected, including the rental unit and, according to the report no bedbugs were found in the rental unit. The pest control firm reported that bedbugs were detected in two units, one on the second floor and one on the third floor. In each case the unit in question was cluttered and unclean.

The landlord's representatives said that a former employee was responsible for giving a Notice to tenants stating that tenants would be responsible for paying for an inspection if bedbugs were not found in their units. The landlord's representative said that the tenant was never charged for any bedbug inspections or treatments.

Analysis

The tenant moved into the rental unit on November 1st. The tenant has alleged that the unit was infested with bedbugs to the knowledge of the landlord before the tenancy began, but she did not make any report until several weeks into the tenancy. The tenant's claim that the landlord was aware of the infestation was based on her testimony that other occupants in the building had posted notices in the elevator complaining about bedbugs in the building. The tenant reported the presence of bedbugs in her unit sometime after she moved in. She did so by telephone. She did not say when she first noticed bedbugs. The landlord's pest control company conducted an inspection on November 23rd. They identified bedbugs and performed a treatment on December 2nd and a follow-up treatment on December 19th. The tenant's claim for compensation is predicated upon her contention that the rental unit became infested with bedbugs due to some fault or failure of the landlord. The tenant has claimed for her out of pocket expenses as well as for counselling and other expenses, including her purchase of furnishings and a vacuum cleaner. The tenant has also claimed for the refund of all rent paid during her tenancy.

The landlord may have a positive obligation to treat bedbugs when they are discovered so as to prevent their multiplication and transmission to other units, but the obligation to treat does not amount to a finding of fault or liability to compensate a tenant without proof that the landlord has been negligent in dealing with the problem or in failing to treat an existing infestation after becoming aware of it. The evidence provided by the landlord established that the landlord hired a licenced professional pest control company to perform inspections and treatments to the rental unit and to the rental

property after it received notice of the bedbug problem. The documents submitted by the landlord included statements from the pest control company. The evidence showed that the landlord retained the company to treat its properties and has used the same company for several years before this tenancy began. According to the documents provided, the landlord called the pest control company to arrange for an inspection and treatment within 24 hours of the tenant first reporting the problem. There have been repeated inspections and further treatments, of the tenants unit. According to the records supplied by the landlord, a number of other units in the building have been inspected and treated and the tenants unit has been found to be free of bedbugs in recent inspections.

The tenant specifically referred to the landlord's notice informing tenants that they would be expected to pay for an inspection if bedbugs were not discovered in the rental unit. The tenant said that this was evidence that the landlord did not take appropriate steps to address the bedbug problem. At the hearing the landlord's representatives said that the notice was posted by a former employee who no longer works for the landlord. The landlord no longer uses that form of notice. The landlord's representatives were unsure as to the rationale for the notice, but said that no tenants have been charged for any inspections, even when no bedbugs have been detected. The landlord's representative referred to the reports from the landlord's pest control company. She said that building wide inspections and treatments have been conducted, with no charges levied to tenants. Upon the evidence presented, I find that the landlord responded diligently and appropriately after it was notified by the tenant that there were bedbugs in her unit. The evidence established that the landlord has treated other units for bedbugs and has not neglected the treatment of other units in the rental property; I find that the evidence does not establish that some omission or want of care on the landlord's part was the cause of the bedbug infestation in the rental unit.

Absent evidence to establish fault on the part of the landlord, there is no basis for the tenant's claim for compensation for her out of pocket expenses. The tenant has claimed for other matters, including counselling and therapy sessions, I have not found that the landlord has been negligent and I therefore do not allow these claims, but in any case, I find that the tenant's psychological upset and pursuit of therapy due to the presence of bedbugs does not constitute recoverable losses because it is not reasonably foreseeable and could not be supposed to be the kind of loss that the parties would have contemplated as likely when the tenancy agreement was made. With respect to the claim for loss of quiet enjoyment, the tenant's has requested repayment of all rent paid over the course of the tenancy agreement. The tenant has lived in the rental unit throughout the tenancy, except for occasions when she has been hospitalized for her personal health reasons. There is insufficient evidence of actual loss of use and I find that there is no basis for an award for loss of quiet enjoyment

amounting to a refund of all rent paid. The tenant's claim for a rent refund is dismissed without leave to reapply.

The sole claim that I find is supported by the tenant's evidence is her claim for reimbursement for a replacement bedbug proof mattress cover in the amount of \$50.37. The cover was damaged by the landlord's pest control technician, in the course of performing an over-zealous inspection for bedbugs.

On the evidence presented, I find that the bedbug problem has been successfully treated. There is no need for repair orders, or for an order that the landlord comply with the *Act*, Regulation or tenancy agreement. I find that the tenant is not entitled to a rent reduction and these claims are dismissed.

Conclusion

The tenant's claims have been dismissed, save for an award of \$50.37. The tenant is entitled to recover \$50.00 of the \$100.00 filing fee paid for this application. I grant the tenant a monetary award in the amount of \$100.37. This order may be registered in the Small Claims Court and enforced as an order of that court. The tenant may choose to deduct this award from a future installment of rent due to the landlord.

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: October 19, 2015

Residential Tenancy Branch

