



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ROCKWELL PROPERTY MANAGEMENT,
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes DRI RP

Preliminary Issues

The Landlord clarified the correct spelling of the corporate Landlord's name. The Tenant confirmed his rental unit number that was in dispute. Accordingly, the style of cause was amended to show the correct spelling and name of the corporate Landlord as well as the Tenant's rental unit number, pursuant to section 64(3)(c) of the Act.

Introduction

This hearing was convened to hear matters pertaining to an Application for Dispute Resolution filed by the Tenant on August 19, 2015. The Tenant filed seeking to dispute an additional rent increase and to obtain an order to have the Landlord make repairs to the unit, site, or property.

The hearing was conducted via teleconference and was attended by both the Landlord and the Tenant. I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however, each declined and acknowledged that they understood how the conference would proceed.

The Tenant gave affirmed testimony that they served the Residential Tenancy Branch (RTB) with copies of the same documents they served the Landlord. The Landlord acknowledged receipt of evidence served by the Tenant and no issues were raised regarding service or receipt of that evidence.

During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. Following is a summary of the submissions and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Has the Tenant been issued a Notice of Rent Increase that complies with the *Act*?
2. Should the Landlord be ordered to conduct repairs to the unit, site, or property?

Background and Evidence

The undisputed evidence was the Tenant entered into a written month to month tenancy that began on September 1, 2011. The Tenant's rent began at \$550.00 per month and remained at that amount until a rent increase became effective September 1, 2015 raising the rent to \$563.00 per month. On or around September 1, 2011 the Tenant paid \$275.00 as the security deposit.

The Tenant was served a Notice of Rent Increase document three months prior to the September 1, 2015 effective date of the rent increase. The allowable increase amount for 2015 is 2.5% which allows an increase up to \$563.75 per month (\$550.00 + 2.5%).

The Tenant filed to dispute the rent increase on the grounds that the building is not being maintained in a manner that complies with health and safety or building regulations. The Tenant argued that there was a bed bug infested mattress left in the hallway blocking an emergency exit and pull station for over 3 ½ days. He said when he could not find the Landlord at the office or her residence he called the head office number and was told to take action himself.

The Tenant submitted evidence that a neighbouring unit door was left open after a tenant vacated the building. He submitted pictures of that unit to show that it was left filthy and infested with bedbugs for four or five days before it was cleaned.

The Tenant testified that their elevators are not cleaned properly, the floor is sticky, littered with garbage, and at times has urine in it. He also spoke of an incident when his family came to visit and saw dog feces outside the front of their building.

The Tenant submitted that although his unit had recently undergone pest control treatment it was not re-treated two weeks later. He argued that he was told by the pest control company that they were to return two weeks later to treat the unit again; however, they did not return. He stated that he has not informed the Landlord that they did not return and he has not completed a written request for another treatment, even though the bed bugs have returned.

In support of his application the Tenant submitted written witness statements and 15 photographs of the rental building.

The Landlord testified that the new owners took over this building on December 15, 2014 and has worked on cleaning up and maintaining the building. She asserted that

the tenants in the unit next door to the Tenant's unit were evicted due to the condition of their rental unit. That neighbouring unit was infested with bed bugs and cockroaches and when their cleaners first went into the unit they accidentally broke the door leaving it unsecured for a few days. She argued that she had requested the Tenant not go inside that neighbouring unit to prevent the spreading of the bugs outside of the unit; however, he did not listen and still went inside.

The Landlord testified that there were 90 units in the building so she cannot aware of every issue on every floor unless someone tells her. If the Tenant does not call her or inform her in writing she is not aware of what needs to be looked after. She asserted that if called she makes arrangements to have things attended to in a timely fashion. She submitted that her phone number is posted on the office door as well as by the intercom system.

The Landlord confirmed that a mattress was left in the hallway and when she was informed the mattress was moved inside a vacant unit until they could get the pest control company into that unit.

The Landlord submitted that the elevators are cleaned upwards of three to four times a day. She argued that their building is next door to a convenience store and during the summer months people buy Slurpees which are often spilled in the elevator.

The Landlord disputed the Tenant's submission and stated that the pest control company did attend his unit for a second pest control treatment. She argued that if the Tenant had given her a written notice that the bed bugs had returned she would arrange for another set of treatments as soon as possible. She argued that she cannot be aware of everything requiring maintenance if the Tenant does not communicate with her.

In closing, the Tenant argued that the Landlord is not doing a daily inspection of the entire building as required by another province's tenancy law. He also asserted that the Landlord's telephone number is not posted. She gave him her telephone number during the hearing and confirmed that if he sees something that needs attention, like a mattress in a hallway, he can call her so she can arrange to have it looked after.

Prior to ending the hearing, I instructed the Tenant that once he calls the Landlord to report a repair issue, if he does not see any action to his request within a day then he should follow up his telephone call with a written request to the Landlord.

Analysis

After careful consideration of the foregoing, documentary evidence, and on a balance of probabilities I find as follows:

Section 43(2) of the *Act* stipulates, in part, that a tenant may not make an application for dispute resolution to dispute a rent increase that complies with the *Act*.

The legislated rent increase amount for 2015 is 3.5%. In this case the undisputed evidence was the Tenant was served a proper 3 month notice of rent increase raising his rent from \$550.00 to \$563.00, which is an increase of less than 3.5%. Therefore, I find the Tenant cannot dispute the rent increase that became effective September 1, 2015, pursuant to section 43(2) of the *Act*.

Section 32 of the *Act* requires a landlord to maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

I accept the Tenant's submission that the Landlord is required to maintain the building in a manner as described by section 32 of the *Act*. That being said, the Landlord must be afforded a reasonable amount of time to respond to maintenance or repair issues once they have been notified of the issue. It is not unreasonable to wait 3 – 5 days for a pest control company to attend a rental building as the Landlord would be at the mercy of the pest control company's schedule. Furthermore, it is not unreasonable to wait 1-2 days for a mattress to be removed as the Landlord would need to arrange to have people attend the building to conduct or assist in the removal. In addition, I conclude the Landlord took the required action by evicting the neighboring tenants once they found out the condition in which those tenants were keeping their rental unit.

There was evidence that there is the presence of bed bugs inside the Tenant's rental unit again; however, the Tenant failed to inform the Landlord of this most recent infestation until the hearing. The Tenant was reminded that he needs to put his requests for pest control in writing to the Landlord. If the Landlord fails to take appropriate action to remedy the situation after being served the written notice, then the Tenant may seek a resolution through dispute resolution at that time.

Based on the above, and in absence of proof of a written request for maintenance or repairs, I find the Tenant provided insufficient evidence to prove the Landlord needs to

be ordered to conduct repairs. Accordingly, the Tenant's application is dismissed without leave.

Conclusion

The Tenant was not successful with his application and it was dismissed without leave to reapply.

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: November 02, 2015

Residential Tenancy Branch

