



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Sports Teams Accommodation Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, RP, OLC, MNDC, FF

Introduction

This hearing was convened by way of conference call concerning an amended application made by the tenant seeking an order that the landlord make emergency repairs for health or safety reasons; for an order that the landlord make repairs to the unit, site or property; for an order that the landlord comply with the *Act*, regulation or tenancy agreement; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

The hearing did not conclude on the first scheduled date and was adjourned to allow for further evidence to be provided by the parties, and my Interim Decision was provided to the parties. The tenant and an agent for the landlord attended the hearing on both scheduled dates and each gave affirmed testimony. The parties were given the opportunity to question each other and make submissions.

All evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Has the tenant established that the landlord should be ordered to make emergency repairs for health or safety reasons, specifically respecting bed bug treatment?
- Has the tenant established that the landlord should be ordered to make repairs to the unit, site or property?
- Has the tenant established that the landlord should be ordered to comply with the *Residential Tenancy Act*, regulation or tenancy agreement, and specifically respecting bed bug treatment?
- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for a rent reduction due to loss of enjoyment of the rental unit?

Background and Evidence

The tenant testified that this fixed term tenancy began on April 1, 2016 and expires on March 31, 2017, and the tenant still resides in the rental unit. Rent in the amount of \$1,550.00 per month is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$775.00 which is still held in trust by the landlord and no pet damage deposit was collected. The rental unit is a suite within a duplex, and the other unit is also tenanted. A copy of the tenancy agreement has not been provided by either party.

The tenant further testified that at the beginning of the tenancy the landlord requested that the tenant complete the move-in condition inspection report, which was done and returned to the landlord but the tenant did not get a copy.

The tenant's 15 year old son was getting bites on his legs and believing it was from spiders the tenant sprayed bug killer in the rental home. In September the tenant's toddler had bites all over. The tenant researched on-line and found bed bug spray, traps and numerous items to treat bedbugs, and went to landlord's office on the Monday following, taking everything that the tenant had purchased. An agent of the landlord called the tenant later saying that she had contacted a bug control company who advised that the tenant was already doing everything they would do, so keep doing it. About 2 days later the tenant got ahold of the bug control company, who attended and inspected the rental unit and furniture, but found no sign of bugs but suspected carpet beetles by the looks of the bites.

The tenant advised the landlord who communicated with the bug control personnel, and 2 bedrooms were sprayed for carpet beetles. Then landlord's agent called the tenant saying that the landlord did due diligence and that internet information says it's caused by the tenant's housekeeping abilities. The tenant called the bug control personnel who absolutely disagreed and sent a letter by email to the landlord. The landlord covered the cost of beetle spray. Another inspection was done in October, 2016, and the bug control personnel did not believe they were carpet beetles, and suggested heat treatment due to bed bugs. The landlord said it was a waste of money not knowing if they were bed bugs. The tenant eventually found a bug, put it in zip lock bag and sent a photograph to the bug control personnel who confirmed it was a bed bug.

The tenant advised an agent at the landlord's office and the landlord sent out an appraisal for cost. The agent at the landlord's office told the tenant that the landlord would not take

responsibility. Also, the bug control personnel told the tenant that the landlord refused to pay for it due to the cost.

The tenant also testified that the tenant received yesterday an email from the bug control person, who has been away and couldn't provide the information sooner, confirming that live bugs were found and that the landlord had denied treatment. The tenant was given the opportunity to provide a copy to me by facsimile and to the landlord, and the hearing was adjourned to allow receipt of that and any other evidence either party wished to provide.

Bed bugs are still a problem in the rental unit and the tenant has 4 children. The tenant keeps clothing in the tenant's vehicle, and other clothing is sealed in a closet. The tenant and her children wear their pajamas to the vehicle and change there, and have done so since November, 2016 when the tenant found out for sure that they are bed bugs. The tenant's life has been hell and put through a ringer because of the issue, and the claim is not for personal gain. The tenant has caught 5 live bugs in the last few days, the tenant has been scratching at work, and the children are covered with bug bites all over. One of the children is missing out on swimming lessons because the tenant cannot send the child with bites all over. Numerous photographs have been provided.

The tenant also testified that bed bugs can hibernate for 18 months, and it's common that previous tenants may not have experienced the problem. The tenant seeks \$1,550.00 in monetary compensation for stress and loss of enjoyment of the rental unit, and seeks that rent be reduced by that amount. The tenant has also provided a letter from one of the tenant's children describing the discomfort residing in the rental unit.

The landlord's agent testified that the landlord has done everything possible. The bug control personnel have never found a bed bug and the landlord has not received any emails; the tenant is telling fabricated lies.

When the carpet was sprayed, no bed bugs were found. The neighboring tenant was asked and told the landlord's agent that there are no bed bugs in that unit, which certainly would travel. The bug control personnel told the landlord's agent that he only found what he thought were beetle droppings.

The owner will treat the rental unit if there's evidence of bed bugs, but there's no evidence. The bug control personnel were there in September, 2016 and didn't charge for the service call. The landlord did not receive an email from the bug control personnel saying that in November live bugs were found and the landlord denied treatment.

The landlord's agent also submits that there were no bed bugs at the outset of the tenancy or when the bug control personnel went there in July and August, 2016. No one except the tenant has seen bed bugs, end of story.

Without sustenance, the bugs would die within 48 hours. The rental unit was rented unfurnished, so the bugs must have been brought into the rental unit by the tenant.

Analysis

Firstly, where a party makes a monetary claim against another party, the onus is on the claiming party to satisfy the 4-part test:

1. That the damage or loss exists;
2. That the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the claiming party made to mitigate such damage or loss.

In this case, the tenant didn't lead any testimony with respect to repairs required, but has applied for monetary compensation as well as for orders that the landlord treat the rental unit for bed bugs at the landlord's expense.

I have reviewed all of the evidentiary material of the parties, and I find that the landlord has refused to deal with the bug problem due to the cost. I do not believe that either party has the expertise to testify where or how the bugs originated, how they travel, their hibernation habits or required sustenance. The evidence that I find to be most compelling are the photographs of the tenant's children. Bed bugs don't come from unhealthy living conditions, but populate where there are people. In this case, I don't know what kind of bugs are in the rental unit, but there are definitely bugs of some sort and the landlord has simply refused to deal with it due to the huge cost of treating bed bugs.

The *Residential Tenancy Act* states that:

- 32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that
- (a) complies with the health, safety and housing standards required by law, and
 - (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

I order the landlord to hire the professional services of an exterminator to investigate the type of bugs and treat accordingly at the landlord's expense by March 15, 2017.

With respect to monetary compensation, I must consider such testimony of how the tenant and the tenant's family have suffered damages as a result of the landlord's failure to maintain the rental unit. Again, the photographs are very compelling, as well as the letter from the tenant's child. I also consider the emails exchanged between the parties and other material showing that the tenant did what was reasonable by notifying the landlord, purchasing sprays and other treatments, and keeping in touch with the bug control personnel. I find that the tenancy has been devalued and the tenant has established a monetary claim as against the landlord.

With respect to quantum, the tenant claims \$1,550.00 which is the current amount of rent payable per month under the tenancy agreement. The landlord treated for beetles, and I find that the landlord did what was required until October, 2016, leaving the last 4 months untreated, and I find that the tenant has established the claim.

Conclusion

For the reasons set out above, I hereby order the landlord to hire the professional services of an exterminator to investigate and treat the rental unit for pests at the landlord's expense by March 15, 2017.

I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$1,550.00.

This order is final and binding and may be enforced.

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: March 02, 2017

Residential Tenancy Branch