



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNR MNDC MNSD OLC ERP FF

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* ("Act") for:

- a monetary order for compensation for loss, emergency repairs, or other money owed under the *Act*, regulation or tenancy agreement pursuant to section 67;
- authorization to obtain a return of all or a portion of their security deposit pursuant to section 38.
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee for this application from the landlords, pursuant to section 72 of the *Act*.

TS and GS appeared behalf of the landlord ('landlord'), and were given full authority by the landlord to act as agents for this hearing. TS and GS notified me during the hearing that the landlord, TW, passed away on January 11, 2017, and requested an amendment to reflect the name of the new landlord. The tenants were not opposed to the amendment. Accordingly the application is amended to include the name of the new landlord. Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The landlord confirmed receipt of the tenants' dispute resolution application ('Application'). In accordance with section 89 of the *Act*, I find that the landlord was duly served with the Application. All parties confirmed receipt of each other's evidentiary materials.

The tenants indicated in the hearing that they had moved out of the rental suite on October 31, 2016. As the tenants had moved out, they withdrew their application for repairs to the suite.

Issues(s) to be Decided

Are the tenants entitled to monetary compensation for loss, emergency repairs, or other money owed under the *Act*, regulation or tenancy agreement?

Are the tenants entitled to a monetary award for the return of their security deposit?

Are the tenants entitled to an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement?

Are the tenants entitled to recover the filing fee for this application from the landlord?

Background and Evidence

This tenancy began in August 2015, with monthly rent set at \$1,200.00. The landlord, TW, had collected a security deposit of \$600.00 from the tenants, and this security deposit remains in the possession of the landlord.

The tenants testified that they had moved in on August 1, 2015, and were not made aware that the building had a bedbug infestation. They started noticing bites in July 2016, which they had initially thought was an allergic reaction. The tenants discovered the bed bugs in October of 2016, and notified the landlord on October 13, 2016. On October 14, 2016 a pest control person came to spray the suite, and this was done on two more occasions with no success of eliminating the bed bugs.

The tenants called their own pest control person at their own cost, and stayed at their friend's house from October 13 to October 31, 2016. The tenants testified that they suffered a significant loss due to this infestation, and are requesting monetary compensation in the amount of \$20,000.00. The tenants provided the following list in support of their monetary claim:

Item	Amount
MK—loss of work Oct 13-31/16 (15 days)	\$8,287.20
ZT—loss of work-1 day	144.00
Cost of staying at friend's place (15 days)	150.00
Legal Advice	98.00
Cleaning Products	10.48
Filing Fee	100.00
Cost of printing hearing documents	9.41
Replacement furniture	202.63
Moving Company	700.00
Gas	40.00
Monthly Rent difference of new place	250.00
Bed Bug Treatment	157.50
Security/Pet Deposits for new place	1,550.00
4 month's rent (July-Oct 2016)	4,800.00
Return of Security Deposit	600.00
Gas for Move	300.00
Laundry/Dryer costs	75.00
Pain and Suffering	2,525.78

Total Monetary Order Requested	\$20,000.00
---------------------------------------	--------------------

The tenants provided typed and signed statements from their employers confirming the loss of work. They also obtained a signed statement from their friend AR for the \$150.00 incurred while staying at her home. The tenants provided a typed statement from the moving company which was not signed, stating that they were forced to move, and total cost was \$700.00, paid in cash to the moving company. The above statements are all typed on plain documentation with no letterhead, and all dated February 14, 2017. The tenants provided a receipt from the lawyer for the legal advice, as well as a receipt for the printing costs and cleaning products. A copy of an Ikea receipt dated November 20, 2016 was provided for items totalling \$202.63, as well as a receipt dated October 28, 2016 for \$40.00 in gas. The tenants provided the written tenancy agreement for a 1 year fixed-term tenancy starting November 2016 with monthly rent set at \$1,400.00 per month. The Security Deposit and Pet Damage Deposit were set at \$700.00 each, but a handwritten note was added indicating that \$1,550.00 was received in cash for the deposits. An invoice for \$157.50, for bed bug treatment on October 31, 2016, was provided in evidence. The tenant MK provided a typed statement, dated February 14, 2017, and witnessed by a coworker that he "had bites all over his body from July 2016 to November 2016". The tenants also provided photos of their apartment as well notices from the landlord for preparation for the bed bug treatment.

The tenants testified that the landlord failed in their obligations to provide a healthy and safe environment to live, and that although a move-in inspection was done prior to the tenants moving in, they were not notified that there were previous bed bug infestations in the building. The tenants stated that they were unable to provide any witnesses for the hearing as the witnesses feared eviction from the landlord for doing so. The tenants admitted that they did not provide a forwarding address to the landlord after moving out on October 31, 2016. The tenants testified that they paid for the bed bug treatment on the last day of their tenancy despite their plan to move.

The landlord's agent TS, testified in this hearing that all parties had inspected the suite upon move in, and the bed bug problem did not occur until a much later date in October 2016. She testified that they responded to the tenant's report of bed bugs immediately by calling in a company to treat the issue. GS, testified that she was a live-in building manager, and that she had never had a problem in her unit. She testified that the issue would occur as tenants often brought the bed bugs into the building. TS testified that monthly inspections were done by a pest control company, and after a tenant moves out. She testified that bed bugs are a city wide problem, and that they have never threatened to evict any tenants for wanting to testify at dispute resolution hearings.

TS testified that the tenants had moved out without proper arrangements with the building manager, without participating in a condition inspection, and without providing a forwarding address for the security deposit.

Analysis

Section 32(1) and (2) of the *Act* outlines the following obligations of the landlord and the tenant to repair and maintain a rental property:

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.

Section 65(1)(c) and (f) of the *Act* allow me to issue a monetary award to reduce past rent paid by a tenants to a landlord if I determine that there has been “a reduction in the value of a tenancy agreement.”

I should first acknowledge that I am sympathetic to the circumstances that befell the tenants. Based on the tenants’ undisputed sworn testimony, I have no reason to question the extent to which the bedbug infestation in this building caused difficulties for them. Unfortunately, bed bugs are a problem in many residential properties. Attaching responsibility for infestations of this type is exceedingly difficult. A monetary award would be considered in the event that evidence is provided to demonstrate that a landlord has failed to take measures to respond to a bed bug infestation.

I have considered the written and oral submissions of the tenants, and while the tenants had provided evidence to support that they were extremely inconvenienced by a bed bug infestation, the tenants did not provide sufficient evidence to establish that the landlord failed to fulfill their obligations as required by section 32(1) of the *Act* as stated above. The tenants testified that they had notified the landlord of the bed bug problem, and the landlord had responded by contacting a pest control company. The pest control company had attended on three separate occasions. Although I accept the tenants’ testimony that the problem was so severe that they had to dispose of furniture and belongings, clean extensively, and even end their tenancy, the tenants did not provide any witness testimony, nor did they produce any expert evidence or reports, to support that the landlord had failed in their obligations.

The tenants did provide some receipts for the costs that they had incurred as part of this incident such as receipts for the replacement furniture, gas, the bed bug treatment, and cleaning supplies. I find there is insufficient evidence for me to make a finding that the landlord had failed to meet their obligations regarding this matter, though, and on this basis I am dismissing the tenants’ application for monetary compensation.

The tenants did not dispute the fact that they did not give proper notice to the landlords upon move out, nor did they provide the landlords with their forwarding address in writing. On this basis I find that the landlords did not fail to abide by section 38 of the *Act*. As the landlords did not make an application to keep the security deposit, I order that the landlords return the \$600.00 security deposit to the tenants.

The filing fee is a discretionary award issued by an Arbitrator usually after a hearing is held and the applicant is successful on the merits of the application. As the tenants were not successful in their monetary claim, I find that they are not entitled to recover the \$100.00 filing fee for this application, and must bear the cost of the filing fee.

Conclusion

I issue a Monetary Order in the tenants' favour for the return of their security deposit by the landlords. The tenants are provided with this Order in the above terms and the landlord(s) must be served with a copy of this Order as soon as possible. Should the landlord(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The remaining portion of the tenants' monetary application is dismissed without leave to reapply. The tenants withdrew their application for repairs as they had already vacated the rental suite.

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: May 3, 2017

Residential Tenancy Branch