



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ERP RP MNDC FF

Introduction

Both parties attended the hearing and gave sworn testimony. The landlord asked if we could supply an interpreter for her. I told her that, if she needed an interpreter, she must supply one herself. We continued the hearing and I found she was able to explain the circumstances well in English. The tenant /applicant gave evidence that they served the Application for Dispute Resolution by registered mail and the landlord agreed they received it. I find the documents were legally served pursuant to section 89 of the Act for the purposes of this hearing. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) That the landlord do emergency repairs pursuant to section 33;
- b) That the landlord repair and maintain the property pursuant to section 32;
- c) Compensation for losses incurred due to lack of repair; and
- d) To recover the filing fee for this Application.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has not maintained the property contrary to sections 32 and 33 of the Act and are they entitled to orders that the landlord do necessary repairs? Are they entitled to compensation for repairs not done?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced May 2016, rent is \$1700 a month and a security deposit of \$850 was paid and the tenant did not remember the amount of the pet deposit that they paid.

The tenant described the home as having three suites and they occupy the upper unit. She said the lower two bedroom unit had had several changes in tenancy. In July 2017, they began having an issue with bed bugs. The new tenant in the two bedroom

downstairs suite said they had problems with bed bugs when they moved in. They were spraying to get rid of them. The tenants said they called the male landlord to complain about the bed bugs and he said downstairs had not complained. He came over and the tenant and he went to the downstairs suite where the occupants told him they had bugs and were spraying.

On August 2, 2017, they gave a written letter to the landlord requesting treatment. The landlord sent a person in late August who said he did not treat for bed bugs. On September 12, 2017, the landlord sent a fumigator to treat the units. The fumigator told them that using sprays usually just scattered the bugs and were not successful. The tenants had to throw out 3 older mattresses (about 5 years old) and a bed frame that was about 2 years old. They had no receipts but said the mattresses were originally about \$600 each and they claim \$100 compensation for each. The bed frame was originally about \$219 from Ikea. They said they also had to pay over \$100 for laundry, \$30 to kennel their dog during fumigation and \$15.90 for bug sprays.

The landlord said that it was not their fault that the tenants had bed bugs. They may have brought them in or they may have been caused by a swimming pool they installed. She said the house was very clean and they try to do whatever they can. She said the person she sent did not see any bugs. The tenant said this was not true, the first person sent did not treat bugs and when the landlord called another service, that company quoted \$1500 to treat and the landlord did not want to pay it. She told the tenant to pay half of it. The landlord said she had been sick and had not enough money, it was the tenant's problem and they could have paid. She said the tenants do not clean up the yard and she has other problems with them. I advised her to make her own Application and to obtain help from the RTB office or a relative or agency.

Included with the evidence are copies of registered mail receipts, a letter dated August 2, 2017, photographs of furniture, a call log and a rent cheque for August 2017 showing authorized deductions including one for bug spray. On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

I find awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;

3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Section 67 of the Act does *not* give the director the authority to order a respondent to pay compensation to the applicant if damage or loss is not the result of the respondent's non-compliance with the Act, the regulations or a tenancy agreement.

I find section 32 of the Act requires a landlord to maintain the property in a state of repair that "complies with the health, safety and housing standards required by law and makes it suitable for occupation by a tenant". I find the weight of the evidence is that the landlord did not comply with section 32 of the Act. I find they were informed in writing of a bed bug infestation on August 5 when the tenant handed him the letter and did not engage a fumigation service until September 12, 2017. I find this neglect to address the issue caused losses to the tenant as mattresses and a bedframe became infested and had to be discarded..

I find the tenant's evidence credible that the bug infestation originated from a lower unit. Her credibility was supported by her spouse's testimony that he accompanied the landlord to the lower unit and they said they had had bugs since move in and were spraying to treat them. Although the female landlord said she was ill and could not afford it, I find section 32 of the Act requires the landlord to maintain the property. I find by allowing this bed bug infestation to continue for over a month after notification and before fumigation was a violation of section 32 of the Act. This does not conform to health standards required by law.

I find the tenant entitled to recover costs of mattress replacement in the amount of \$300 (\$100 each for 3 mattresses). The Residential Policy Guidelines assign a useful life to elements in rental premises. I find furniture is assigned a useful life of 10 years. As the bedframe was 2 years old, I find them entitled to recover 80% of the cost of replacement or \$175.20 (.8x\$219).

I dismiss her claim for other items named in the hearing. As explained to the tenant in the hearing, applicants are limited to the amount of compensation claimed on the Application. This is based on the principle of Administrative Justice that respondents must be informed of the compensation claimed against them and have the opportunity

to respond. She claimed \$500 in her Application and I find she is limited to this amount of possible recovery.

Although the respondent noted she had some problems with English, I find she participated well in the hearing and her points were understood and discussed.

Conclusion:

I find the tenant entitled to a monetary order as calculated below and to recover the filing fee. I dismiss their further claims for compensation and give them leave to reapply if necessary.

Mattress compensation	300.00
Bed frame allowance	175.20
Filing fee	100.00
Total Monetary Order to Tenant	575.20

.I HEREBY ORDER that the tenant may deduct \$575.20 from their rent to recover the \$575.20 compensation awarded above.

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: September 19, 2017

Residential Tenancy Branch