



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ORCHARD PLACE INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNSD, MNDC

Introduction

The tenant seeks return of a security deposit and compensation for personal possessions discarded due to bedbug contamination.

Both parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Does the landlord have a lawful right to retain the tenant's security deposit? Has the tenant's loss of personal possessions been caused by the landlord's act for failure to carry out its rights and obligations under the *Residential Tenancy Act* (the "Act")?

Background and Evidence

The rental unit is a two bedroom apartment in a two floor apartment building. There is a written tenancy agreement. The tenancy started in August 2015 and ended in late 2016. The monthly rent was \$850.00. The tenant paid a \$425.00 security deposit which was not returned at the end of the tenancy.

The tenant testifies that despite a manager's assertion at move in, a bed bug issue at the apartment building had not been resolved. Bedbugs were discovered in November

2015 and a professional exterminator treated the apartment with a "heat treatment." The rental unit was treated again in August 2016.

The tenant says he was upset by the return of the bedbugs and complained. He says the manager at that time, a Mr. S.H. indicated that the tenant could move without giving proper notice and that he could live rent-free until he moved and that he would get his full deposit back.

Within a few weeks however, on October 1, 2016, the building was sold. The tenant says he found bedbugs again in early October. The new landlord's representative Ms. N.Z. told him to move. He did, moving to a motel and then to his daughter's place in Calgary.

The tenant is of the opinion that the bedbugs originated with homeless people who were coming into the building at night because the landlord would not fix the front door to prevent strangers from entering. He is of the view that the exterminators the landlord hired in the past should have treated all the units in the building and not just some.

Ms. W.H. for the landlord says the tenant should have claimed against the former landlord not the current owner. She says the new owner was not informed of any bedbug problem in the building and that there has been no bedbug problem since the tenant left.

Analysis

Security Deposit

The tenant failed to provide the landlord with a forwarding address in writing at the end of the tenancy or within a year afterward. As a result, by operation of s. 39 of the *Act*, the landlord may keep the deposit and the tenant cannot get it back. This portion of the application is dismissed.

Loss Due to Bedbugs

In some cases a landlord who does not take reasonable steps to eradicate a bedbug problem in an apartment building may become responsible for loss suffered by a tenant as a result.

In this case the evidence offered by the tenant provides only a suggestion or a suspicion that the landlord may not have attended to the problem as it should have. However, the fact that the landlord appears to have hired a qualified pest control company to attend to the problem goes a long way to allay that suspicion.

When the problem arose again in October 2016 the tenant chose to move rather than await any pest control methods the new owner might apply.

In the end result, the burden is on the tenant to show that the landlord failed to act in a lawful responsible manner in dealing with bedbugs. He has not met that burden and this portion of the application must also be dismissed.

Conclusion

The tenant's application is dismissed.

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 08, 2018

Residential Tenancy Branch