



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PETERSON COMMERCIAL PROPERTY MANAGEMENT INC.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP RR OLC MNDCT FFT

Introduction

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

- an Order for emergency repairs pursuant to section 33 of the *Act*;
- an Order to reduce the rent for repairs, services or facilities agreed upon by not provided pursuant to section 65 of the *Act*;
- an Order for the landlord to comply with the *Act*, regulation, and/or the tenancy agreement pursuant to section 62 of the *Act*;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67 of the *Act*; and
- recovery of the filing fee for this application from the landlord pursuant to section 72 of the *Act*.

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. Tenant S.K. attended and spoke on behalf of both tenants, and is herein referred to as "the tenant".

As both parties were present, service of documents was confirmed. The tenant testified that he served the landlord with the Notice of Dispute Resolution Proceeding by giving it in person to the building manager, which was confirmed by the landlord.

Based on the undisputed testimonies of the parties, I find that the tenant served the landlord with Notice of this hearing in accordance with section 89 of the *Act*.

The tenant testified that all of his evidence was served to the landlord with the Notice of Dispute Resolution Proceeding, except for two pictures and a text message, which was personally served to the building assistant manager around September 14, 2018. The

landlord stated that this evidence was never received. However, as the evidence was served to an agent of the landlord over 14 days prior to the hearing date, I find that this evidence was served in accordance with the Act and the Residential Tenancy Branch Rules of Procedure, therefore I have considered it in this decision.

Preliminary Issue – Amendment of the Tenant’s Application for Dispute Resolution

The landlord confirmed that the tenant did not correctly name the property management company acting as the landlord’s agent, and failed to also name the corporate landlord, on the Application for Dispute Resolution. Therefore, pursuant to my authority under section 64(3)(c) of the *Act*, I amended the tenant’s Application to correctly name the landlord and landlord’s agent.

Issue(s) to be Decided

Should the landlord be ordered to make emergency repairs?

Is the tenant entitled to a reduction of rent for repairs, services or facilities agreed upon by not provided by the landlord?

Should the landlord be ordered to comply with the *Act*, regulations and/or tenancy agreement?

Is the tenant entitled to a monetary award for the landlord’s failure to comply with the *Act*, regulations and/or tenancy agreement?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony presented, not all details of the submissions and arguments are reproduced here. Only the aspects of this matter relevant to my findings and the decision are set out below.

A written tenancy agreement was submitted into evidence. Both parties confirmed their understanding of the following terms of the tenancy agreement:

- This one-year fixed term tenancy was originally scheduled to begin on July 25, 2018, however, due to renovations that the landlord failed to complete on time, the parties agreed to a revised move in date of July 30, 2018.
- Monthly rent of \$1,300.00 is payable on or before the first of the month.
- A security deposit of \$650.00 was paid by the tenant and continues to be held by the landlord.

The following is a summary of testimony presented by the parties during the hearing:

- The tenant did not pay any rent for July 2018 and the tenant paid a reduced rent amount of \$713.00 for August 2018 rent. This was compensation provided to the tenant by the landlord due to the delay in finishing renovations to the rental unit.
- The tenant went to the doctor on August 10, 2018 and was diagnosed with bedbug bites. The tenant notified the landlord on August 10, 2018, which was a Friday. The landlord attended at the tenant's rental unit on Monday, August 13, 2018 for an inspection, and subsequently arranged for pest control treatment to take place the next day, August 14, 2018. The landlord opted for the more expensive heat treatment which does not require the extensive preparations as the chemical treatment, in order to have the treatment done as soon as possible.
- The tenant was provided with the preparation instructions sheet which explains what can and cannot be left in the rental unit during the heat treatment.
- On August 17, 2018 the tenant notified the landlord that bedbugs were found in the rental unit. The landlord arranged for a chemical treatment on August 22, 2018. The tenant did not fully prepare the unit in accordance with the preparation instructions, but the pest control technician went ahead with the chemical treatment.
- At the recommendation of the pest control technician, the landlord scheduled several follow-up chemical treatments on August 29, September 4, and September 14. The tenant stated that he refused access to the pest control technician on August 29, 2018 as he claimed that he had not been given notice of the scheduled treatment, which was disputed by the landlord.
- The tenant has not seen any more bedbugs since September 6, 2018 and has not reported any bedbugs to the landlord since September 6, 2018.

The tenant testified that he submitted his Application for Dispute Resolution on August 21, 2018. The tenant testified that his claim for an order for the landlord to comply with the Act, regulations and/or tenancy agreement is related to his claim for the landlord to complete emergency repairs. The tenant acknowledged that there is currently no longer a bedbug issue, therefore there is no longer a requirement for the landlord to complete emergency repairs.

The tenant's Application notes that the tenant is seeking a full month rent reduction of \$1,300.00. The tenant testified that he spent two nights at a hotel as a result of being unable to sleep at the rental unit due to the bedbugs. The tenant submitted into evidence a screenshot of an emailed hotel receipt. The tenant acknowledged that he received a rent reduction for the month of August 2018 in the amount of \$587.00.

The tenant testified that he is seeking a monetary award of \$30,000.00 for compensation due to the stress and physical suffering as a result of the bedbugs, and for damage to his furniture and computer the tenant claimed was the result of the heat treatment.

Analysis

The tenant testified that he has not seen any bedbugs since September 6, 2018. Therefore, as the issue has been rectified, I dismiss the tenant's claim for an Order for emergency repairs. As the tenant's claim for an Order for the landlord to comply was related to the tenant's claim for emergency repairs, I also dismiss this claim as there is no longer a related issue.

The tenant has also claimed for a rent reduction and for compensation for damages.

Rent Reduction

Section 65 of the *Act* provides that, where an arbitrator has found the value of a tenancy was reduced because the landlord has not complied with the *Act*, regulations, or tenancy agreement, the past or future rent may be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement.

The tenant testified that he and his co-tenant stayed at a hotel for a few nights due to the inability to sleep at the rental unit because of the bedbugs. The tenant never notified or made a request to the landlord in advance to be provided with a rent reduction for the cost of a hotel. The tenant undertook this of his own volition without providing the landlord with any opportunity to mitigate this cost.

In this case, I find that the landlord responded in a reasonable way and within a reasonable time to address the bedbug issue once notified by the tenant. Therefore, as I do not find that the landlord failed to comply with the *Act*, regulations or tenancy agreement, I do not find that the landlord is obligated to provide a rent reduction for the cost of a hotel stay as a result of the bedbug issue.

The tenant also testified that there were deficiencies in his rental unit at move in, including a window that did not work properly, window coverings needing repair or replacement, and cleaning required as a result of the repair work. The tenant acknowledged that he received \$587.00 as a rent reduction from August 2018 rent. As this represents a 45% reduction in the monthly rent, I find that this is a reasonable

compensation for the renovation deficiencies encountered by the tenant at the beginning of the tenancy. As such, based on the evidence and testimony presented, on a balance of the probabilities I do not find that the tenant is entitled to a further rent reduction based on this claim.

Compensation for Damages

Section 67 of the *Act* provides that, in cases where an arbitrator has found that damages or loss results from a party not complying with the *Act*, regulations, or tenancy agreement, an arbitrator may determine the amount of that damage or loss and order compensation to the claimant.

Section C of Residential Tenancy Policy Guideline #16. Compensation for Damage or Loss examines the issues of compensation in detail, and explains as follows:

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- *a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;*
- *loss or damage has resulted from this non-compliance;*
- *the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and*
- *the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.*

The tenant presented testimony and submitted photographic evidence of the bedbug issue in his rental unit, and the resulting stress as well as physical and emotional suffering it caused. I have no doubt that the tenant suffered both physically and emotionally as a result of the bedbugs, however, as explained above, in this case I have found that the landlord responded in a reasonable way and within a reasonable time to address the bedbug issues. Therefore, based on the evidence and testimony presented, on a balance of the probabilities, I do not find that the stress suffered by the tenant was the result of the landlord's failure to comply with the *Act*, regulations, or tenancy agreement, and as such the landlord is not responsible for compensation.

The tenant also claimed compensation for damage to furniture and a computer as a result of the heat treatment. The tenant was provided with instructions in preparation for the heat treatment and therefore I find it was his responsibility to manage his personal belongings in accordance with the instructions provided. The tenant acknowledged that he did not submit any receipts for the cost of replacing the damaged items as he planned to replace these items in future. As explained in Policy Guideline #16, the party who suffers the damage or loss must be able to prove the amount of or value of the damage or loss. In this case, the tenant had not replaced any of the reportedly damaged items, nor had he submitted any receipts, and therefore he was not able to prove the amount of or value of the damage or loss.

As such, based on the evidence and testimony presented, on a balance of the probabilities I do not find the tenant is entitled to any compensation for damages.

The tenant was not successful in his application and therefore is not entitled to recover the cost of the filing fee from the landlord.

Conclusion

The tenant's application is dismissed in its entirety.

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 10, 2018

Residential Tenancy Branch