



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP MNDC OLC PSF RR RP

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on December 3, 2018, at 11:00 am. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

Both parties attended the hearing and provided testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The Landlord confirmed receipt of the Tenant's application and evidence, and the Landlord stated she did not serve the Tenant with her evidence. As stated in the hearing, the Landlord's evidence has not been exchanged in accordance with the Rules of Procedure, and is not admissible. I will not consider the Landlord's late and improperly served documentary evidence any further.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not repairs, or emergency repairs are required and whether or not there are emergency health and safety matters raised on this portion of the Tenants application. As a result, I exercised my discretion to dismiss all of the grounds the Tenant applied for, with leave to reapply, with the exception of the following claim:

- Is the Tenant entitled to an order requiring the Landlord to make emergency repairs for health or safety reasons?
- Is the Tenant entitled to an order requiring the Landlord to make repairs to the rental unit?

The Tenant's request for monetary compensation for loss of quiet enjoyment, and for the costs she has incurred over the last few months is also dismissed, with leave to reapply.

Issue(s) to be Decided

- Is the Tenant entitled to an order requiring the Landlord to make emergency repairs for health or safety reasons?
- Is the Tenant entitled to an order requiring the Landlord to make repairs to the rental unit?

Background and Evidence

The Tenant testified that she has been a tenant in this rental unit for a few months now, and starting in September 2018, she noticed she started to have issues with bedbugs. The Tenant stated that this issue causes her a great deal of anxiety, and she has lost a lot of sleep over this issue.

Although the Tenant raised other issues on her application with respect to there being a dirty pool, and issues with the heating, she did not bring these issues up or address them in any way during the hearing with respect to her request for repairs, or emergency repairs. The Tenant only raised the issue of bedbugs during the hearing, and how they have impacted her tenancy.

The Tenant stated that on the evening of September 20, 2018, she noticed a bedbug in her bed and on her clothing. The Tenant stated that she also had bed bug bites, and

pointed to her photographic evidence. The Tenant stated that on September 21, 2018, she emailed the Landlord, and requested that they come and deal with the bed bug issue. The Tenant stated that she did not hear back from the Landlord by the end of the day on Friday, September 21, 2018, so she contracted pest control service to have her rental unit fumigated over the weekend. The Tenant stated that she also threw out some clothing, and her bed to get rid of the bed bugs.

The Tenant stated that after she had the rental unit fumigated, she has had no further issues with bugs, or bites. The Tenant stated that she still suffers from loss of sleep because she worries that the bugs may come back. The Tenant is looking to move and wants to be able to break her lease. The Landlord expressed a willingness to allow the Tenant to break her lease, and suggested they talk about ways to do with in a mutually acceptable way.

The Landlord stated that neither she, nor the company she works for, ever received an email on September 21, 2018, requesting help with the bed bug issue. The Landlord stated that they have an on-site caretaker in the building during the week, and also have an after-hours emergency contact number posted in the lobby. The Landlord stated that they treat bedbugs seriously, and would have responded right away through the emergency contact line, had they received a call. The Landlord stated that the Tenant did not call them, nor did she attend the office of the onsite caretaker. The Landlord pointed out that the Tenant just sent an email mid-day on Friday September 21, 2018, rather than contacting the emergency and on-site services.

The Landlord stated that the Tenant attempted to email this issue to their corporate email account they use to set up tenancies, but stated that this email the Tenant sent was never received. The Landlord stated that they only found out about the Tenant's issue with bed bugs when the Tenant's neighbour mentioned it to them on September 26, 2018. The Landlord stated that as soon as they heard of the issue, they had a pest control company come, on October 2, 2018, to inspect and clear all of the rental units. However, the Tenant had already contracted another company out by this time. The Landlord stated that no issues were found, and they also scheduled a follow up inspection in November 2018, but the Tenant failed to let the company in.

The Landlord stated that there are no bed bug issues, as the Tenant is asserting, and they take issue with not being told about the Tenant's concerns properly. The Landlord feels it is not fair the Tenant is seeking action and compensation for any of this.

Analysis

After looking at the Tenant's submissions at the hearing, it is apparent that the main issue at hand is with respect to the bed bugs, and her ongoing concerns that they may come back. I note this is the only issue the Tenant raised with respect to her request for repairs or emergency repairs. As a result, this is the only issue I will address below.

First, I turn to Section 33(1) of the Act, which defines "emergency repairs" as repairs that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purpose of repairing:

- Major leaks in pipes or the roof,
- Damaged or blocked water or sewer pipes or plumbing fixtures,
- The primary heating system,
- Damaged or defective locks that give access to a rental unit, or
- The electrical systems.

Based on the evidence before me, I find there is insufficient evidence to show that any potential bed bug issue, meets the definition of an "emergency repair". As such, I dismiss the Tenants' application to have the Landlord make emergency repairs for health or safety reasons.

Next, I turn to section 32 of the Act:

Landlord and tenant obligations to repair and maintain

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.

After considering the evidence before me, I note the Tenant has provided some evidence with respect to some bug bites on her body, and also a bed bug she found around her rental unit. However, I note there is no evidence from the Tenant to substantiate that these are bed bug bites, or that the bug she found was a "bed bug". It is not sufficiently clear that there is or was an issue with bed bugs.

I note the Landlord called a pest control company as soon as they became aware there may be an issue, and it does not appear that any issue was discovered at that time. I acknowledge that by the time this occurred, the Tenant had already hired a pest control company to fumigate, so it is difficult to know the true extent of any bed bug issue. Ultimately, I find the Tenant has not sufficiently demonstrated that there was, or is an ongoing bed bug issue which warrants an order for the Landlord to fix, remedy or repair.

It appears the Tenant took matters into her own hands after making her own determinations with respect to there being a bed bug infestation. I acknowledge the Tenant was not happy that she did not get an email response right away, and so she threw out some of her belongings, and hired a fumigator. However, I also note the Landlord was not properly made aware of any potential issue. The Tenant could have called the Landlord directly, or spoken with the onsite caretaker. Although the Tenant still has concerns about sleeping in the rental unit due to the past bed bug issue, I find there is insufficient evidence that any problem currently exists, ongoing, such that it would warrant an order from me to address the issue.

I find the Tenant has failed to demonstrate that there is a need for a repair or emergency repair pursuant to section 32 and 33 of the Act.

Conclusion

The Tenant's application for repairs, and for emergency repairs, is dismissed, without leave to reapply.

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: December 4, 2018

Residential Tenancy Branch