



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CONCERT REALTY SERVICES LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP MNDCT OLC RP RR

Introduction

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

- An order that the landlord make repairs and emergency repairs pursuant to section 33;
- a monetary award for damage or loss pursuant to section 67;
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- reduction of the rent pursuant to section 65..

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 tenants were represented by counsel. The corporate landlord was represented by its agent LC (the "landlord").

As both parties were present service of documents was confirmed. The parties testified that they were in receipt of the tenants' application for dispute resolution and their respective evidence package. I find that the parties were served with the respective materials in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the landlord be ordered to make repairs or emergency repairs to the rental unit?
Are the tenants entitled to a monetary award as claimed?
Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?
Are the tenants entitled to a reduction of rent?

Background and Evidence

The parties agreed on the following facts. This tenancy began in June, 2017. The current monthly rent is \$1,030.00 payable on the first of each month. The rental unit is a suite in a multi-unit building containing 12 total units.

The tenant became aware of the presence of pests in the rental suite in October, 2017 and reported it to the landlord. The landlord arranged pest control to attend and they discovered bedbugs in the suite. The landlord made arrangements for the rental suite to be treated and there were multiple follow-up visits by pest control. Despite these efforts the tenants gave evidence that the bed bugs have been a persistent issue in the rental suite.

The tenant submits that the landlord's response was not in a timely manner and their pest control procedures have been inadequate. The initial treatment occurred on January 17, 2018, after a bed bug was first discovered during an inspection of January 3, 2018. The tenants suggest that prudent pest control procedure would involve treating neighbouring suites. The tenants gave evidence that while the issue abated for a time after treatment, the bed bugs have inevitably returned to the suite. The tenants gave evidence about the detrimental impact the presence of pests have had on their family.

The tenants seek a retroactive reduction in the rent in the amount of \$2,450.00, approximately \$204.00 per month for 12 months for the loss of value of the tenancy. The tenants also seek a monetary award in the amount of \$1,100.00 the cost of replacement of bedding and furniture the tenants say had to be disposed of as a result of the bed bugs.

The landlord testified that they have arranged for pest control to attend the rental suite on multiple occasions and they continue to attend for periodic review. The landlord said that the bed bug issue has only been reported in the rental suite and that neighboring suites were inspected but did not exhibit any signs of infestation. The landlord testified that the tenants were not directed or required to dispose of bedding or furniture.

Analysis

While counsel for the tenants cited a number of earlier cases adjudicated by the Branch, I note that Arbitrators are not bound by previous decisions as each case is decided on the application of the *Act* to the unique evidence and testimony provided.

Section 32 (1) of the *Act* states that:

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.

Residential Tenancy Act Regulations Schedule 8, in relevant part, states:

8 (1) Landlord's obligations:

- (a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a tenant. The landlord must comply with health, safety and housing standards required by law.
- (b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

Residential Tenancy Policy Guideline 1 in relevant part states a landlord is generally responsible for insect control.

In accordance with the above, I find that the landlord was obligated to deal with the infestation of bed bugs when alerted to the situation by the tenant. The landlord has a duty to provide a rental unit in a state of reasonable health, safety and housing standards which includes freedom from pests such as bed bugs. However, the landlord is only obligated to make reasonable efforts and the standard they are held to is not perfection.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. The claimant also has a duty to take reasonable steps to mitigate their loss. This section is read in conjunction with section 65 of the *Act* allowing for a monetary award the equivalent of a retroactive reduction in the value of the tenancy.

The tenants submit that the landlord's response to the issue of bedbugs has been inadequate and not done in a timely manner. There was a period of 2 weeks between January 3, 2018 when a bed bug was discovered and January 17, 2018 when treatment was performed. Subsequently there have been periodic inspections of the suite and when a bed bug is discovered treatment occurs within a few days.

Based on the evidence of the parties I find that the tenants have not shown on a balance of probabilities that the damages and loss suffered are attributable to the landlord. There is no evidence that the bed bugs originated or were caused by the landlord. The landlord is obligated to act reasonably when informed of the problem and I find the evidence shows that the landlord took reasonable action in a prudent period. While there was some delay between the initial discovery of bed bugs and treatment I do not find that the delay was excessive or unreasonable. Furthermore, while the landlord may have taken additional steps such as treatment of neighboring suites the landlord is not obligated to take all possible steps. As the neighboring suites were inspected and found to not be suffering from bed bugs I find that the landlord's actions were reasonable under the circumstances.

I therefore find that the landlord acted in accordance with their obligation under the *Act* and regulations. I find that the tenants have not established grounds to prove that the landlord is liable for the damages or losses which resulted from the bed bug issue in the rental unit. There is no evidence that the bed bugs were caused by the landlord or that the landlord did not act reasonably and prudently at all times in dealing with the issue.

I find that the tenants have not met their evidentiary burden on a balance of probabilities showing that the landlord has breached the *Act*, regulations or tenancy agreement or that they have not acted reasonably in attempting to deal with the bed bug infestation of the rental suite. Accordingly, I dismiss the tenants' application in its entirety.

Conclusion

The tenant's application 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: January 03, 2019

Residential Tenancy Branch