



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OPTIONS COMMUNITY SERVICES and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes FFT, MNDCT, RP, RR

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on August 16, 2019 (the "Application"). The Tenant applied as follows:

- For repairs to be made to the unit;
- To reduce rent for repairs, services or facilities agreed upon but not provided;
- For compensation for monetary loss or other money owed; and
- Reimbursement for the filing fee.

The Tenant appeared at the hearing. The Agents for the Landlord appeared at the hearing. I explained the hearing process to the parties who did not have questions when asked. The parties provided affirmed testimony.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence and no issues arose.

The parties were given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered all oral testimony of the parties and all evidence pointed to during the hearing. I have only referred to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Tenant entitled to an order that the Landlord make repairs to the unit?
2. Is the Tenant entitled to reduce rent for repairs, services or facilities agreed upon but not provided?

3. Is the Tenant entitled to compensation for monetary loss or other money owed?
4. Is the Tenant entitled to reimbursement for the filing fee?

Background and Evidence

A written tenancy agreement was submitted as evidence. It is between a previous landlord and the Tenant. The tenancy started November 01, 2005 and is a month-to-month tenancy.

The Agents advised that the Landlord took over the rental unit from the previous landlord in April of 2017.

The parties agreed rent is \$490.00 per month due on the first day of each month.

Repairs

The Tenant's claim relates to issues with bed bugs in the rental unit. The Tenant testified that the bed bug issue has been ongoing for years. The Tenant testified that the bed bugs live in the walls of the building and move within the walls.

At the hearing, the Tenant sought the following repairs:

- Caulking of the walls of the rental unit so bed bugs cannot enter the unit
- Whatever is necessary to prevent bed bugs
- For the Landlord to use a generator for heat treatments of bed bugs
- For the Landlord to punch holes in the walls and spray inside the walls

The Tenant testified that generators for heat treatments are available and were used by the prior landlord. The Tenant submitted that this was a more efficient and effective form of treatment for bed bugs than what the Landlord is doing now.

The Tenant testified that the Landlord's current regime for treating bed bugs includes doing three treatments over six weeks. He said he has to pack all of his belongings up which is physically onerous. The Tenant pointed out that he is 72 years old. He said the exterminator regime requires him to leave the rental unit for four to six hours and to move his furniture. The Tenant said he has been asking the landlord for assistance with the bedbug issue since 2011 and that the Landlord does not assist.

The Tenant testified that the bed bug issue results in loss of sleep as he wakes up at night to check for bed bugs and stains from bites.

D.R. testified that the neighbours of the rental unit do not have bed bugs in their units. A.M. also testified that no other rental units around the rental unit have bed bugs.

D.R. testified that, during the last treatment of the rental unit, it was identified that a table in the rental unit might be the source of the bed bugs. D.R. said the Tenant was asked to remove his items from the table but he did not do so.

A.M. advised that the Landlord will put caulking on the walls of the rental unit if the Tenant moves his belongings so this can be done. A.M. testified that using a generator for heat treatments is no longer permitted by the city.

J.W. testified that the exterminator used to address the bed bug issue does do heat treatments, vacuums and does a chemical treatment. He advised that the rental unit has been steam treated.

In reply, the Tenant took the position that the Landlord should be responsible for moving his belongings in order to put caulking on the walls. The Tenant also agreed that the exterminator currently does the spray and heat treatment referred to by J.W.

Reduce Rent

The Tenant said he is seeking a rent reduction to try to motivate the Landlord to address the bed bug issue. He said he thought the heat treatment the prior landlord used was still available. He said perhaps the Landlord can come up with something else to deal with the bed bug issue. The Tenant suggested that the Landlord should hire someone else other than the exterminator they are currently using. He said maybe the Landlord should bring in an expert. The Tenant testified that people bring bed bugs with them when they move into the building.

J.W. testified that the Landlord is motivated to address the bed bug issue. He testified that the Landlord uses considerable resources to address the issue. J.W. testified that the Landlord does use a professional. He said the Landlord has seen a reduction in the problem. J.W. testified that the Landlord has just installed a heat treatment room and are asking new tenants to have their belongings treated prior to moving them into the

building. He said the exterminator believes the bed bugs are in the table in the rental unit and that the Tenant can have the table treated in the heat treatment room.

The Tenant was not yet aware of the heat treatment room.

Compensation

The Tenant sought the following compensation:

- \$13.41 for cockroach traps;
- \$55.97 for a bed bug cover for his mattress;
- \$225.00 for having to clean up blood stains from bed bug bites; and
- \$2,810.00 for one year's worth of catching bed bugs.

The Tenant testified as follows. The rental unit is supposed to be habitable. The rental unit is not habitable given the bed bug issue. He submitted photos showing the blood stains on his mattress cover from bed bug bites. He invited agents for the Landlord to inspect the mattress cover before he got rid of it, but they refused. He has had 19 cockroach traps filled. The Landlord has no right to force him to do things that are the Landlord's obligation to do. His time is not free.

D.R. testified that the Landlord gives cockroach traps out for free and so the Tenant does not need to be buying them. She also testified that the Landlord provided the Tenant with a mattress cover and assisted him with putting it on.

J.W. also testified that the Landlord provides cockroach traps for free. He also testified that the Landlord provides bed bug mattress covers for free and can provide the Tenant another one. J.W. denied that the Landlord should have to compensate the Tenant as requested. He agreed the Tenant's time is valuable but testified that all tenants are required to follow the process for preparing for bed bug treatments and adhering to preventative protocols. He advised that the Landlord does provide extra laundering for free in relation to bed bug issues.

In reply, the Tenant testified that he has had to change his mattress cover twice and he is seeking compensation for the first time he had to change it. The Tenant was not aware that the Landlord provided extra laundering for free in relation to bed bug issues.

Evidence

I note that the Tenant submitted a long list of requests in his written materials. As explained at the hearing, many of these are beyond the scope of a request for repairs which is what this application is for. I have only considered the requests set out during the hearing.

In his written materials, the Tenant makes the following points. Dealing with the bed bug issue takes up his time. New tenants bring bed bugs into the building with them. The Landlord is not being proactive in dealing with the issue. The issue has been going on for a long time.

The Tenant submitted evidence showing the Landlord has consistently treated the rental unit for bed bugs and more recently for cockroaches.

The Tenant submitted evidence about purchase of the mattress cover in August of 2017. The Tenant submitted evidence about the cockroach traps showing they were purchased in October of 2018.

The Landlord submitted evidence showing a pest control company has been dealing with the bed bug and cockroach issue consistently since November of 2018 and earlier in relation to cockroaches.

The Landlord submitted a letter to the Tenant dated September 26, 2019 about a pest treatment September 19, 2019. It states that the pest control company identified a table in the rental unit as the problem. It states that the Tenant was asked to remove his belongings from the table so that it could be treated but the Tenant refused. The Landlord included a report from the pest control company showing an issue with the table.

Analysis

Section 32(1) of the *Residential Tenancy Act* (the "Act") states:

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.

Both landlords and tenants have responsibilities and obligations in relation to bed bug and cockroach issues in a rental unit given the nature of these issues. A landlord is responsible to take all reasonable steps to address these issues such as having a pest control company attend to deal with them. A tenant is responsible for doing what is necessary in their rental unit to prevent pests and prepare their belongings and, within reason, the rental unit for treatment or preventative measures.

I accept based on the evidence submitted by both parties that there are bed bug and cockroach issues in the building and rental unit. I also accept based on the correspondence provided by the Tenant that these issues have been going on for a long time.

However, I accept the testimony of the Agents about what the Landlord is doing to address these issues. I accept that the Landlord has a pest control company attend regularly to treat the rental unit and other affected units. The Tenant acknowledged this and provided evidence of this. I accept that the Landlord is willing to put caulking on the walls of the rental unit to address the issues. I accept that the Landlord has installed a heat treatment room and is asking new tenants to have their belongings treated prior to moving them into the building. The Tenant was unaware of this; however, the Agents advised this was new and I have no reason to doubt their testimony on this point. I accept that the Landlord is agreeable to the Tenant using the heat treatment room for items such as the table in the rental unit. I accept that the Landlord provides cockroach traps and bed bug mattress covers for free. I also accept that the Landlord provides laundry for free in relation to bed bug issues. Again, I have no reason to doubt this testimony of the Agents. I find the Landlord is taking all reasonable steps to address the bed bug and cockroach issue.

I am not satisfied the Tenant has fulfilled his responsibilities in relation to addressing the bed bug and cockroach issue. During the hearing, the Agents advised that the Landlord will put caulking on the walls of the rental unit as long as the Tenant moves his belongings so that this can be done. The Tenant would not agree to do so. I acknowledge that this may be onerous for the Tenant given his personal circumstances.

However, it is the Tenant's responsibility to deal with his own belongings and, within reason, prepare the rental unit for preventative measures the Landlord is willing to take to address the issues raised by the Tenant. If the Tenant is unable to move his belongings on his own, it is his responsibility to find someone to assist him. It is not the Landlord's responsibility to deal with the Tenant's personal belongings in the rental unit. Addressing issues such as bed bugs and cockroaches needs to be a joint effort between the Landlord and Tenant.

Further, the Landlord submitted evidence indicating that the pest control company identified the table in the rental unit as a source of bed bugs. The Agents testified that the Tenant was asked to move his belongings so that the table could be treated and that he refused. I did not understand the Tenant to dispute this as, at the hearing, he took the position that the table is not the source of the problem. I am satisfied that the pest control company hired by the Landlord are professionals based on the Landlord's evidence. There is no evidence before me to suggest otherwise. If the pest control company hired by the Landlord identified the table in the rental unit as a source of bed bugs, the Tenant is responsible for removing his belongings so that the table can be treated. I accept that the Tenant did not do so.

Given the above, I am not satisfied the Tenant has done his part to address the bed bug and cockroach issue.

In relation to the specific requests, I find the following.

Repairs

As stated above, the Landlord must "provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and...makes it suitable for occupation by a tenant" pursuant to section 32(1) of the *Act*.

Also as stated, I find the Landlord is required to take all reasonable steps to address the bed bug and cockroach issue.

I am satisfied it is reasonable to require the Landlord to put caulking on the walls of the rental unit to address the bed bug and cockroach issue. The Agents advised that the Landlord is willing to do so as long as the Tenant moves his belongings so that this can be done. This is a reasonable request.

I therefore order the following pursuant to section 62(3) of the Act:

The Landlord is to provide the Tenant with a written outline of what he needs to do to prepare the rental unit so that the caulking can be done. This outline is to be provided to the Tenant within two weeks of the date of this decision. Once the Tenant receives this outline, the Tenant is to prepare the rental unit as requested by the Landlord. Once the Tenant has done so, he is to notify the Landlord in writing that this is done. Once the Landlord receives written notification from the Tenant that he has prepared the rental unit as requested, the Landlord is to put caulking where necessary in the rental unit to address the bed bug and cockroach issue within three weeks of receiving the written notification.

I do not find it appropriate to order the Landlord to do “whatever is necessary to prevent bed bugs”. As stated, preventing bed bugs needs to be a joint effort between the Landlord and Tenant given the nature of the issue. I am satisfied the Landlord is taking all reasonable steps to address the bed bug issue at this point.

I am not satisfied the Tenant is entitled to an order that the Landlord use a generator for heat treatments of bed bugs. The Agents testified that the city will no longer permit this. The Tenant has not submitted sufficient evidence to show this is a viable option at this point. This is the Tenant’s application and his onus to prove. I am not satisfied the treatment requested is a viable option at this point and therefore decline to order the Landlord to do it.

I am not satisfied the Tenant is entitled to an order that the Landlord punch holes in the walls and spray inside the walls for bed bugs. The Tenant has not submitted any evidence to support that this is a reasonable option to address the bed bug issue or that it would address the bed bug issue. Further, there are other options the Landlord has not yet tried such as treating the table in the rental unit and putting caulking on the walls. These options require the cooperation of the Tenant. Until these things are done, I am not satisfied the Landlord is required to do more.

Reduce Rent

Section 65 of the *Act* states:

65 (1) Without limiting the general authority in section 62 (3)...if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders...

(f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;

I am satisfied the Landlord is taking all reasonable steps to address the bed bug and cockroach issue. I am not satisfied the Tenant has fulfilled his obligations in this regard. Until the Tenant does, I am not satisfied he is entitled to a rent reduction.

I also note the following. I am satisfied the Landlord is using a professional to deal with the bed bug and cockroach issue. There is no evidence before me to suggest that the Landlord should hire someone else or that the current company is not using the methods available to deal with the issue. Further, the Landlord has addressed the issue of new tenants bringing bed bugs into the building by installing a heat treatment room.

Compensation

Section 7 of the *Act* states:

7 (1) If a landlord...does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord...must compensate the [tenant] for damage or loss that results.

(2) A...tenant who claims compensation for damage or loss that results from the [landlord's] non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

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.

As stated, I am satisfied the Landlord is taking all reasonable steps to address the bed bug and cockroach issue and am satisfied based on the evidence relating to the treatment dates that they have been doing so since 2018. I am not satisfied the Landlord has breached the *Act*, regulations or tenancy agreement. Nor am I satisfied the Tenant has minimized his loss given my comments above about the Tenant not fulfilling his obligations regarding the bed bug and cockroach issue.

Further, I would not have awarded the Tenant compensation for items purchased 10 months prior to the Application being filed and two years prior to the Application being filed. I note that the Agents testified that the Landlord provides cockroach traps and bed bug mattress covers for free. The Tenant can therefore obtain these in the future without cost.

I am not satisfied the Tenant is entitled to reimbursement for the filing fee. The Tenant was mostly unsuccessful in the Application. I find the parties could have resolved the caulking issue through communication and cooperation without having a hearing.

Conclusion

I make the following order:

The Landlord is to provide the Tenant with a written outline of what he needs to do to prepare the rental unit so that the caulking can be done. This outline is to

be provided to the Tenant within two weeks of the date of this decision. Once the Tenant receives this outline, the Tenant is to prepare the rental unit as requested by the Landlord. Once the Tenant has done so, he is to notify the Landlord in writing that this is done. Once the Landlord receives written notification from the Tenant that he has prepared the rental unit as requested, the Landlord is to put caulking where necessary in the rental unit to address the bed bug and cockroach issue within three weeks of receiving the written notification.

The remainder of the Application is dismissed without leave to re-apply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 17, 2019

Residential Tenancy Branch