



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes RP, PSF, MNDCT

Introduction

This matter on the tenant's application for dispute resolution under the Residential Tenancy Act (Act) convened by teleconference on September 24, 2019, for 61 minutes, at which time the hearing time expired.

The hearing was adjourned and an Interim Decision was issued on September 30, 2019, outlining orders and my decision that the tenant's application would proceed on the tenant's monetary claim of \$2,162.77. During the period of adjournment, the tenant was allowed to submit her responses to the landlord's evidence.

As such, this Decision must be read in conjunction with my September 30, 2019, Interim Decision. That Decision noted that the tenant will be and has now vacated the rental unit; therefore, I decline to consider her requests for repairs to the rental unit and for an order requiring the landlord to provide services or facilities required by law and the tenancy agreement.

The matters were scheduled to reconvene by teleconference on December 12, 2019, to finish the oral submissions of the parties, including the landlord's witness.

During both hearings, the parties were provided with a full opportunity to present relevant oral evidence, to ask questions, and to make relevant submissions relating to the tenant's application.

Although I was provided a considerable amount of evidence from the tenant including: verbal testimony; written submissions; digital evidence; legal advocate submissions, and photographic evidence relating to the tenant's application; with a view to brevity in writing this decision I have only summarized the party's respective positions below.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation due to the landlord's breach of the Act?

Background and Evidence

This tenancy began on April 1, 2015, with a monthly rent of \$800.00, and a security deposit of \$400.00 paid by the tenant.

The tenant confirmed that she vacated the rental unit on October 31, 2019.

The tenant's monetary claim is in the amount of \$2,162.77. These 16 items broken down on her monetary order worksheet include a claim for hotel stays, registered mail costs, cleaning costs, a title search, and silver fish glue strips and insecticides.

In support of her application, the tenant submitted that the landlord failed to properly address her concerns about the silverfish in her rental unit, which was in a multiple unit apartment building.

The tenant submitted that the landlord failed to provide timely pest control treatments and that she had to attempt to take care of the problem herself with glue traps and insecticide. The tenant submitted that she continued to see live silverfish all over her home, including in the kitchen, on her dishes and silverware, and in the bathroom.

The tenant submitted said she could not feel comfortable in her home and the situation was very stressful to her.

The tenant submitted that she had to hire cleaning ladies to help her with cleaning up the silverfish, as the landlord was not properly responsive to her complaints.

The tenant submitted that she first began to see issues with the silverfish in 2017.

The tenant submitted that the landlord did not have regular pest control inspections and it was necessary for her to take control of her own pest control.

The tenant's relevant evidence included, but was not limited to, an 80-page application with attachments and a USB port, with approximately 126 entries, including doctor

statements, receipts, photographs, and multi page documents, which included the tenant's declarations.

Landlord's response-

The landlord's agent asked if her witness could testify first as he had to return to work and it was agreed he could.

Landlord's witness-

The landlord's witness said he owned the pest control company who looked after their needs at the residential property. The witness said he has been licensed for 30 years and is contracted to make regular inspections of the residential property.

The witness said on July 2, he attended the rental unit and saw 20-30 glue traps. The witness said he saw no silverfish on the glue traps. The witness said he did not see any live silverfish, but did see 10 dead ones.

The witness said what did alarm him was the diatomaceous earth spread around the rental unit, presumably by the tenant, as that substance was not safe.

The witness said the rental unit was clean and uncluttered and that he did not see a problem. The witness said he visits the apartment complex once a month and looks for signs of pests.

Cross-examination by the tenant's legal representative-

The witness said silverfish are not disease carrying, but they are a nuisance.

The witness acknowledged that he had seen silverfish in the rental unit.

The witness said he looked over the entire rental unit and pulled out the refrigerator.

The witness said it was not a waste of time to do the second treatment.

The witness said that he believed the tenant was exaggerating the amount of silverfish in the rental unit.

Tenant's response-

The tenant submitted that the witness made the inspection on June 25 not July 2.

The tenant submitted that there were only 18 traps found, as shown in his report.

The tenant submitted that 12 silverfish indicates a problem.

The tenant denied that the witness came to the rental unit in the two-year period on a regular basis.

The tenant submitted that when the witness came into the rental unit with the landlord's agent, the inspection was only 5-6 minutes.

Landlord's response-

The landlord submitted that the landlord hires the pest control company to do monthly inspections and do whatever is necessary to prevent any problems. The landlord submitted that they take the matter of pest control seriously.

Upon a notification from the tenant on May 7, 2018, that the cleaning lady found bugs at the back of the bathroom cupboard, the pest control company attended the next day and found one silverfish. The landlord submitted that the tenant described herself as "phobic".

The landlord submitted that the tenant requested compensation for spraying and hotel costs, but learned from her expert that spraying did not require her to vacate. It was the tenant's choice to spray.

The landlord submitted that they reimbursed the tenant for 30 traps, cleaning, additional chemical spray treatments and "repairs" to seal the unit to cover the costs of the initial spraying in 2017. The landlord submitted that the matter has already been settled, as the tenant accepted the landlord's offer of compensation.

The landlord submitted that on March 14, 2019, the tenant reported she put out 23 traps, sprays and powder at her own costs, as she saw two bugs.

On the inspection in July with the witness and at the tenant's request, the landlord submitted that they found 18 traps and all were empty.

The landlord submitted that the tenant's actions caused her expenses and that her frequent requests are "often incongruent" with their obligations as a landlord.

The landlord's relevant evidence included a written submission, the move-in inspection report, written requests/complaints to the landlord beginning in July 2017, the pest control company reports and statements, and letters to the tenant from the landlord.

Analysis

Under section 7(1) of the Act, if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other party for damage or loss that results. Section 7(2) also requires that the claiming party do whatever is reasonable to minimize their loss. Under section 67 of the Act, an arbitrator may determine the amount of the damage or loss resulting from that party not complying with the Act, the regulations or a tenancy agreement, and order that party to pay compensation to the other party. In this case, the tenant has the burden of proof to substantiate her claim on a balance of probabilities.

Section 32 of the *Act* requires that a landlord must provide and maintain a rental unit in a state of repair that complies with the health, safety, and housing standards required by law and having regard for the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Having carefully considered all of the testimony and considerable exhibits presented prior to and during the hearing which lasted a total of 123 minutes over two different hearing dates, I find the tenant has failed to meet the burden of proof.

I am not satisfied based on the evidence presented that the rental unit was infested with silverfish. Furthermore, even if the rental unit did have an issue with silverfish, which I have not found, I find that the landlord did not breach the Act as I find the landlord's response to the tenant's frequent complaints/requests to be timely and thorough.

I have determined this after reviewing the reports of the pest control company and listening to the testimony of the owner of the company, who I found to be forthright, credible, and consistent.

I found the tenant's evidence to be overwhelming, repetitive, and at times, not relevant. For instance, I did not find the tenant's picture of her high blood pressure medication or medical records were probative of her monetary claim.

Nonetheless, I find the tenant submitted insufficient evidence to show that the landlord was not responsive to her concerns with her silverfish issue. I find the landlord's evidence of their responses showed they complied with their obligation under the Act.

As such, I find the tenant has not shown on a balance of probabilities that the landlord has breached the Act. I therefore find she has not met her burden of proof and I dismiss her application in full.

Conclusion

The tenant's application is dismissed, for the reasons stated above.

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 3, 2020

Residential Tenancy Branch