



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, PSF, RP, MNDCT

Introduction

On November 19, 2019, the Tenant applied for a Dispute Resolution proceeding seeking a Repair Order pursuant to Section 32 of the *Residential Tenancy Act* (the “*Act*”), seeking an Order for the Landlord to comply pursuant to Section 62 of the *Act*, seeking that the Landlord provide services or facilities pursuant to Section 62 of the *Act*, and seeking a Monetary Order for compensation pursuant to Section 72 of the *Act*.

On December 4, 2019, the Tenant amended her Application seeking to increase the amount of monetary compensation she was seeking pursuant to Section 67 of the *Act*.

This Application was set down for a hearing on January 10, 2020 and was subsequently adjourned to be heard at 1:30 PM on February 21, 2020 as there was not enough time to complete the hearing during the original proceeding.

The Tenant attended the adjourned hearing with K.D. attending as an advocate for the Tenant. Neither the Landlord nor an agent for the Landlord attended the adjourned hearing. All in attendance provided a solemn affirmation.

As documented in the Interim Decision dated January 20, 2020, Rule 2.3 of the Rules of Procedure outlines that claims made in an Application must be related to each other, and I have the discretion to sever and dismiss unrelated claims. During the original hearing, the Tenant was asked which issue was the most pressing, and she elected to seek restitution with respect to the rat infestation. As such, this adjourned hearing addressed matters in the Tenant’s Application with respect to the rat infestation issue, and the other claims were dismissed with leave to reapply. The Tenant is at liberty to apply for any other claims under a new and separate Application.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a Repair Order?
- Is the Tenant entitled to an Order for the Landlord to comply?
- Is the Tenant entitled to monetary compensation?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on November 1, 2018 with a different landlord. The current Landlord purchased the rental unit soon after the tenancy commenced, and he inherited the tenancy. Rent was established at \$1,100.00 per month, due on the first day of each month. A security deposit of \$750.00 was paid, but some portion of this was also a pet damage deposit. A copy of the signed, written tenancy agreement was submitted as documentary evidence.

The Tenant advised that on or around January 2019, five separate water leaks occurred, which led to the discovery that rats had entered the rental unit and had chewed through the water pipes. She stated that the Landlord eventually repaired the leaks to the pipes but holes in the walls were not sealed, allowing rats to enter the rental unit. She stated that she addressed multiple letters and emails to the Landlord about the rat infestation on or around June 2019; however, the Landlord took insufficient steps to rectify this problem. An agent for the Landlord had only been to the property twice in the last few months and had simply laid mousetraps down, which has not effectively solved the problem. She advised that rats have eaten her food, damaged her furniture, and left feces and urine throughout the rental unit. As a result, she must spend at least an hour each day sterilizing and cleaning her rental unit of the rats' waste. She stated that she has seen rats at nighttime, on her kitchen counter, or running along the floor. Since June 2019, she spends at least one and a half hours everyday wiping down and sterilizing surfaces with bleach and water. In addition, the rats have chewed through her boxes in the storage room and contaminated the items within with feces and urine. She submitted the letters, emails, and pictures as documentary evidence to support her position.

During the original hearing, T.N. agreed that there was a rat infestation, that he has known about this since June 2019, and that he “knows how to deal” with rats. However, it is his position that the rats are in the rental unit because the Tenant leaves dog food out and leaves a door open so that the rats can easily gain access. He referenced a picture that the Tenant submitted which depicts a door being left open. He stated that he asked the Tenant’s nephew to ensure that the door remained closed so as not to attract rats anymore. He stated that a renovation was started, and rats were observed in the walls of the rental unit. Since November 2019, he has been putting rat poison down and he advised that the Landlord has put traps down, but he is not sure when this was done. He stated that he has tried to eliminate how rats could potentially enter the rental unit, but he stated that they can “come in through other places.” He then contradictorily stated that he checked the surroundings of the house, that the foundation is concrete, and that there was “no way for rats to get into” the rental unit other than through the door that the Tenant leaves open. He advised that there is no evidence of any rats chewing on the walls. He stated that he goes to the rental unit “most of the time”, but then clarified by indicating that he returns to the rental unit once or twice a week. He would routinely find dead rats and he would then bury them. He was at the rental unit the Sunday before the original hearing and he did not find any dead rats; however, he said he would return to the rental unit on the weekend.

The Tenant advised that neither T.N. nor the Landlord have been to the rental unit with this frequency, that no one has been on the residential property since a stop work order was issued, and that no one has come to the property since the original hearing. Since the original hearing, she found a dead rat in her fridge and in her living room, she has seen three rats running around, and that there are still traces of rat feces and urine daily.

She advised that she is seeking compensation in the amount of **\$650.00** for the cost to have her belongings in storage removed from the rat damaged boxes, cleaned, and then re-packed into new boxes. She stated that the rats had chewed into all her storage boxes and had urinated and defecated on her property. She hired two people to empty the boxes, sterilize and clean her belongings and the room, and then repackage her property into new bins. She stated that she paid these people \$25.00 per hour for 11 hours of work, total. On top of that, she had to pay for disposal of property that could not be salvaged and for loads of washing. She referenced pictures of the damage and the condition of her property, and she cited the invoices she submitted as documentary evidence to support this claim.

As no one attended the adjourned hearing on behalf of the Landlord, there were no submissions made on this point.

She advised that she is seeking compensation in the amount of **\$142.78** for the cost of purchasing plastic bins to have the aforementioned belongings packed in more secure, rat proof containers. She stated that she looked for the most economical containers available and even drove out of her way to obtain them. She paid \$6.49 for the 22 containers that were required to re-pack her belongings. She submitted a receipt as documentary evidence to support the cost of these items.

As no one attended the adjourned hearing on behalf of the Landlord, there were no submissions made on this point.

She advised that she is seeking compensation in the amount of **\$148.93** for the cost of food that she had lost as a result of being consumed by rats. She submitted pictures of this lost food as documentary evidence to support her claims of loss. She outlined the items lost and estimated the cost as follows:

- Bundt cake \$5.00
- Bananas \$3.00
- Brown rice \$8.00
- Flour \$9.00
- Coffee \$16.00
- Protein powder \$96.00
- Pasta \$8.00
- Crackers \$4.00

As no one attended the adjourned hearing on behalf of the Landlord, there were no submissions made on this point.

She advised that she is seeking compensation in the amount of **\$5,280.00** for the loss of quiet enjoyment of the rental unit, calculated from the start of the rat infestation spanning over the subsequent seven months. She stated that she verbally advised the Landlord of the rat infestation but formalized her complaints in writing in June 2019. The Landlord has not taken appropriate steps to deal with this matter, nor has he done so in a timely manner. On the contrary, the actions that the Landlord has taken has been to serve three, separate Two Month Notices to End Tenancy for Landlord's Use of Property, all of which have been cancelled. She advised that she is not used to living with rats and that she is breathing in rat urine and feces on a daily basis, which she

states resulted in the development of a lung infection on January 10, 2020. She stated that her daily routine is to put on a mask, then sweep rat feces from around the rental unit and off of her property. She will also clean, sterilize, disinfect, sweep, and mop all surfaces. This is a severe health issue that has affected her quality of life and must be addressed as the Landlord has been negligent to date. She referenced pictures submitted to illustrate the extent of the infestation, the resultant waste left by the infestation, and the damage caused. As well, she submitted documentation to demonstrate that the Landlord was aware of the problem since June 2019 and had not taken sufficient steps to rectify it.

As no one attended the adjourned hearing on behalf of the Landlord, there were no submissions made on this point.

She advised that she is seeking compensation in the amount of **\$15.74** for the cost of steel wool that was purchased in an attempt to plug holes that that rats created to enter the rental unit, and for the cost of masks that were purchased to ensure that her health was not compromised when dealing with the cleanup of the rat feces and urine. She submitted a receipt supporting these expenses.

As no one attended the adjourned hearing on behalf of the Landlord, there were no submissions made on this point.

Finally, she advised that she is seeking compensation in the amount of **\$78.39** and **\$263.97** for four dog carriers that she had owned and were damaged by the rat infestation. She stated that she bred dogs for sale and that the carriers were used for new puppies; however, the rats had torn into these carriers and had contaminated them with feces and urine. As a result, these would not be healthy environments or suitable for use by newborn puppies. She provided pictures of these damaged carriers and submitted online estimates to support the cost of replacement of these carriers.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 32 of the *Act* requires that the Landlord 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 “having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.”

With respect to the Tenant’s request for a repair Order, the consistent evidence is that there is a rat infestation in the rental unit and that the Landlord has been aware of it since June 2019. While T.N. alleges that the presence of rats was due to the Tenant leaving the door open, I find it important to note that the Landlord has not submitted any evidence to refute what has been presented by the Tenant. I also do not find it likely that the Tenant would have left her door open for such a substantial amount of time that would have realistically allowed rats to enter the rental unit, or that she would not have simply closed the door if this were a plausible suggestion. Furthermore, T.N. stated that there was “no way for rats to get into” the rental unit other than through the door that the Tenant leaves open, but also contradictorily indicated that he has tried to eliminate how rats could potentially enter the rental unit “through other places.” I find that this causes me to doubt the truthfulness of T.N.’s submissions. In addition, the Tenant has submitted evidence that clearly demonstrates that rats are, more likely than not, entering the rental unit through holes that they have created in the property. Based on a balance of probabilities, I find that I prefer the Tenant’s evidence that there is a rat infestation and that this is a responsibility of the Landlord to rectify under Section 32 of the *Act*.

While T.N. advised that he “knows how to deal” with rats, that he has routinely placed rat poison in the rental unit, and that the Landlord has placed rat traps at unknown times around the rental unit, clearly this will not be an effective long-term remedy if the access to the rental unit by the rats is not first sealed. As this has been an ongoing issue since June 2019, the Landlord’s attempts to rectify this problem have evidently not been effective. Furthermore, to support her position that the Landlord has been negligent in his duties in addressing this situation properly, she cited three, separate Two Month Notices to End Tenancy for Landlord’s Use of Property that the Landlord has served her instead in 2019, which were all dismissed. In fact, the Landlord did not even attend two of those hearings and had an agent attend the third hearing. Based on this, and the fact that the Landlord or a representative of the Landlord failed to attend this adjourned hearing, I find that I am doubtful that the Landlord has taken to managing this rental unit seriously and has demonstrated a pattern of negligence or ambivalence in addressing issues with the rental unit that he is responsible for correcting.

As such, I am satisfied that the Landlord has ineffectively and insufficiently managed the issue of the rat infestation. Under Section 32 of the *Act*, I Order that the Landlord hire a certified pest control professional, within **two weeks** of the date of this Decision, to

investigate the source of the rat infestation and provide recommended solutions. Furthermore, the Landlord must comply with the certified pest control professional's recommendations in fixing and remediating this issue, and this work must be completed within **a month** of the date of this Decision. Failure to comply with this Order can potentially provide the Tenant with an opportunity to apply for further compensation. In addition, the Landlord is put on notice that continuation of such actions of negligence may result in investigation by the Compliance and Enforcement Unit of the Residential Tenancy Branch, and Administrative Penalties may also be levied, if warranted.

With respect to the Tenant's claims for damages, when establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided."

Regarding the Tenant's claims for compensation, I am satisfied from the undisputed evidence that the Tenant has suffered from a loss of property that has clearly been attributed to the ongoing rat infestation. Furthermore, she has adequately demonstrated the unacceptable, daily living conditions that she has been subjected to for such a substantial period of time. As the Landlord has been negligent in dealing with this issue, and has evidently attempted to end the tenancy falsely multiple times, with no merit, instead of actually addressing problems that he is responsible for rectifying, I am satisfied that the Tenant has sufficiently established her claims. I grant the Tenant a monetary award in the amount of **\$6,579.81**.

As issues not pertaining to the rat infestation were severed, the Tenant's claims for \$600.00 for garbage collection, \$200.00 for a weed eater, \$5,280.00 for a loss of quiet enjoyment for construction related noise, and \$26.99 for thermostat replacement were dismissed with leave to reapply. Furthermore, as there are no provisions in the *Act* which permit compensation for the Tenant's claims for \$303.98 for computer ink and for \$9.98 for USB ports, these claims were dismissed without leave to reapply. Pursuant to Section 67 of the *Act*, I grant the Tenant a monetary award as follows:

Calculation of Monetary Award Payable by the Landlord to the Tenant

Packing and cleaning	\$650.00
Storage bins	\$142.78

Replacement of food	\$148.93
Loss of quiet enjoyment for seven months	\$5,280.00
Steel wool and masks	\$15.74
Dog carriers	\$342.36
TOTAL MONETARY AWARD	\$6,579.81

Conclusion

The Landlord is Ordered to take corrective action immediately to investigate the nature of the rat infestation and to provide an effective remedy to this situation.

I Order that the Landlord complete the following actions:

- As soon as is reasonably possible, and within **two weeks** of the date of this Decision, the Landlord must hire a certified pest control professional to investigate the source of the rat infestation and provide recommended solutions.
- Within **a month** of the date of this Decision, the Landlord must comply with the certified pest control professional's recommendations in fixing and remediating this issue, and must also have this work completed.

In addition, I grant the Tenant a monetary award in the amount of **\$6,579.81**, and the Tenant is permitted to withhold this amount from future months' rent until exhausted 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: February 26, 2020

Residential Tenancy Branch