



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding KEEFER ROOMS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRT, RR, RP, OLC, PSF

Introduction

On May 14, 2020, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* ("the Act) for a monetary order to recover the cost of emergency repairs that they made during the tenancy, for an order for regular repairs, to request a rent reduction due to required repairs to the rental unit, for an order for the Landlord to comply with the Act, regulation and/or the tenancy agreement, and for an order for the Landlord to provide services or facilities required by the tenancy agreement or law. The matter was set for a conference call.

Both the Landlord and Tenant attended the hearing and were each affirmed to be truthful in their testimony. The Landlord and Tenant were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Preliminary Matter – Settlement

During the hearing, both parties came to a settlement regarding the Tenants application for a monetary order to recover the cost of emergency repairs that they made during the tenancy, for an order for regular repairs, for an order for the Landlord to comply with the Act, regulation and/or the tenancy agreement, and for an order for the Landlord to provide services or facilities required by the tenancy agreement or law.

Section 63 of the *Act* allows for the parties to consider a settlement to their dispute during the hearing, and that any settlement agreement reached during the hearing may be recorded in the form of a decision and an order. In accordance with this, an opportunity for a settlement discussion was presented, and the parties came to an agreement on a settlement that would resolve part of their dispute.

During the hearing, the parties agreed to the following settlement:

1. The Tenant will provide a copy of their original tenancy agreement to the Landlord. To prove that there was a fridge included in their original tenancy agreement with the previous owner of the rental property.
2. The Landlord agreed to provide the Tenant with a replacement fridge, for the rental unit, if the original tenancy agreement recorder that a fridge was included in this tenancy.
3. The Landlord will pay the Tenant \$11.74 for the out of pocket cost the Tenant paid for emergency repairs completed to the rental unit.
4. The Tenant agreed to contact the Landlord, in writing, for all required repairs to the rental unit.
5. The parties agreed to a bi-weekly treatment of the rental unit for bedbugs.
 - a) The parties agreed that the first treatment was completed on June 9, 2020, and that the second treatment is scheduled for June 23, 2020.
 - b) The parties agreed that treatment would continue every two weeks, on Tuesdays, until the bed bug problem was resolved.
6. The tenant agreed that they would prepare the rental unit for treatment as instructed by the per control company before each scheduled treatment, as outline above.
7. The Landlord agreed to replace the box spring in the rental unit.

The above terms of the settlement agreement were reviewed with all parties and all parties confirmed that they were entering into the settlement agreement on a voluntary basis.

A **Conditional Monetary Order** for **\$11.74** is granted to the Tenant to be served on Landlord should the Landlord do not pay the agreed upon amount in accordance with this agreement.

Preliminary Matter – Application Amended

During the hearing, the Tenant clarified their claim, stating that they are not seeking a rent reduction but that they are seeking a monetary order, in the amount of \$300.00, in compensation for the Landlord not making requested repairs to the rental unit.

Section 4.2 of the Residential Tenancy Branch rules of procedure states the following regarding application amendment during the hearing:

4.2 Amending an application at the hearing

In circumstances that can reasonably be anticipated, such as when the amount of rent owing has increased since the time the Application for Dispute Resolution was made, the application may be amended at the hearing.

I find it reasonable and appropriate to amend the Tenant's application during this hearing. The Tenant's request for a rent reduction for repairs, services, or facilities agreed upon but not provided is removed, and a request for a monetary order for compensation for the Landlord not making need repairs to the rental unit is added to this application.

Preliminary Matter - Issues Withdrawn

During the hearing, the Tenant withdrew their claim for an order for the Landlord to comply with the Act, regulation and/or the tenancy agreement, and for an order for the Landlord to provide services or facilities required by the tenancy agreement or law.

I will proceed with the Tenant's application regarding their request for a monetary order for compensation under the *Act*.

Issue to be Decided

- Is the Tenant entitled to a monetary order for compensation for the Landlord not making need repairs to the rental unit?

Background and Evidence

The Tenant testified that their tenancy began in April 2013 and that the management of the rental property was changed in December 2018. The parties agreed that the rent in the amount of \$500.00, is to be paid by the first day of each month. The parties also agreed that the Tenant paid a \$220.00 security deposit at the outset of this tenancy. The Landlord testified that they had not been given a copy of the Tenant's tenancy agreement when they took over the management of the rental property. The Tenant testified that they believe they have a copy of the tenancy agreement but that they had not included a copy of that agreement in their documentary evidence.

The Tenant testified that they had discovered bed bugs in their rental unit in August 2019, and that they had advised the Landlord of the problem and requested treatment but that the Landlord had not acted on their request.

The Landlord testified that they had not received a request for the treatment of bed bugs from the Tenant in August 2019. The Landlord testified that they have a standing bi-weekly contracted pest control service that provides treatment services for this rental property. The Landlord also stated that if they had received the Tenant's request for treatment in August 2019 it would have been easy for them to just add the Tenant's rental unit to the treatment list, and again confirmed that they had not received the Tenant's request.

The Tenant testified that they had provided the Landlord with a written request for the treatment of bed bugs in February 2020.

The Landlord testified that they had received the Tenant's written request for the treatment of bed bugs in February 2020 and had added the Tenant's rental unit to the bi-weekly treatment list. The Landlord testified that pest control services attend the Tenant's rental unit, six times between March to May 2020, but that each time the Tenant had not prepared the rental unit for treatment as instructed by the pest control services. The Landlord submitted a copy of the pest control services, treatment instructions letter, stating that the letter is posted to the front door of each unit that requires treatment.

Both parties confirmed that the first successful treatment of the rental unit took place on June 9, 2020, and that there is a second treatment scheduled for June 23, 2020.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

During the hearing, I heard contradictory testimony from both parties regarding when the Landlord had been advised of the bed bugs in the Tenant's rental unit.

In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. In this case, it is the Tenant who holds the burden of proof to support their claims.

I have reviewed the Tenant's entire application, and I find that the Tenant has not provided any documentary evidence to support their claim that they had advised the Landlord in August 2019 of the bed bugs in their rental unit. In the absence of physical evidence that would outweigh the contradictory verbal testimony of the parties, in this case, I find there is insufficient evidence to support that the Tenant's claim that they requested bed bug treatment in their rental unit in August 2019.

However, I accept the agreed upon testimony of these parties that the Landlord had received the Tenant's request for bed bug treatment in their rental unit in February 2020. I also accept the unrefuted testimony of the Landlord that they had attended the rental unit six times for bed bug treatment, but that they were not able to treat the rental unit as the Tenant had not prepared the rental unit for treatment.

I find that the Landlord did respond to the Tenant's request for bed bug treatment in a reasonable time and that it was the Tenant's actions of not preparing the rental unit for treatment as instructed by the professional pest control services, that delayed the completion of this requested repair.

As it was the actions of the Tenant that delayed the completion of this requested repair and not the Landlord, I find that the Tenant is not entitled to compensation for the delay in the completion of this requested repair. Accordingly, I dismiss the Tenant's claim for compensation under the *Act*.

Conclusion

I dismiss the Tenant's application for compensation under the *Act*.

The parties are ordered to comply with the terms of the settlement agreement, as outlined in this decision.

I grant a conditional **Monetary Order** for **\$11.74** to the Tenant to be served on the condition that the Landlord did not comply with the third term of the settlement agreement. If this occurs, the Monetary Ordre must be served upon the Landlord and should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: June 16, 2020

Residential Tenancy Branch