



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Welbec Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, OLC, RR

Introduction

This hearing was scheduled for 11:00 a.m. on this date to deal with a tenant's application for repair orders and orders for the landlord to comply with the Act, regulations or tenancy agreement with respect to a German cockroach infestation following a previous dispute resolution proceeding. Both parties appeared or were represented at the hearing.

From the outset of the hearing, the landlord's owner/agent wanted to re-argue the matter that was before a different Arbitrator who presided over the tenant's previous Application for Dispute Resolution (file number provided on the cover page of this decision). I informed the landlord's owner/agent that this was not appropriate venue to dispute a previously issued decision as I cannot change or overturn a previous decision and that the landlord's recourse is to file for Review Consideration or Judicial Review of that decision; however, the landlord was cautioned that there are time limits for doing so. Despite this, the landlord made several other attempts to re-argue the previous case.

With respect to the Application for Dispute Resolution before me, I confirmed the landlord received the tenant's proceeding package sent by registered mail on July 17, 2020.

The tenant subsequently filed an Amendment to seek authorization to reduce rent in the amount of \$2500.00. The Amendment was sent to the landlord via registered mail on July 31, 2020. The landlord stated he did not receive the Amendment. The tenant's Advocate provided a registered mail tracking number and a search of the tracking number showed the registered mail was delivered on August 6, 2020. The landlord questioned the address the tenant used to serve him. The tenant's Advocate had been sending the registered mail to the landlord's service address, as provided on the

tenancy agreement. The landlord pointed out the service address on the tenancy agreement is in another City and he had not been to that location since August 4 or 5, 2020.

The landlord's owner/agent stated that he would prefer the tenant serve him at a different address in the future so that he receives materials in a timelier manner. The landlord provided his preferred service address during the hearing and I have recorded it on the cover page of this decision.

The landlord's manger testified that he had submitted evidence, namely a pest control invoice for services provided on August 17, 2020, to the Residential Tenancy Branch by email on August 20, 2020 and a copy was given to the tenant's Advocate. The tenant's Advocate confirmed that he had received a copy of the invoice but I informed the parties that I had not and emailing evidence to the Residential Tenancy Branch is not the manner in which evidence is to be submitted.

Given the landlord had not received the tenant's Amendment and I had not received the landlord's evidence, I considered adjourning the hearing to a later date but I proceeded to try to determine the current status of the tenancy and the German cockroach infestation before doing so. It was apparent from early in this proceeding that the tenancy relationship is strained and the acrimony was palpable. I cautioned the parties numerous times to refrain from being argumentative, to answer the question asked of them, and to stop interrupting the proceeding until I turned to them. Unfortunately, the conduct of some of the participants, especially the landlord's owner/agent, was so argumentative, not on point, and interruptive, I ended the call at approximately 11:40 a.m. and I make this decision based on what I heard thus far. The tenant's Advocate and support worker were also cautioned to stop arguing with the other party and to stop interrupting. In contrast, I recognize that the conduct of the landlord's manager was much calmer and he appeared motivated to obtain resolution; however, I noted that the landlord's owner/agent spoke over his manager at times in a thinly veiled attempt to change the manager's response to my questions.

It is likely the parties will be involved in a future proceeding so I put all parties, and especially the landlord's owner/agent, on notice as to the expected conduct at a hearing, as provided in Rule 6.10 of the Rules of Procedure which I reproduce below:

6.10 Interruptions and inappropriate behaviour at the dispute resolution hearing

Disrupting the hearing will not be permitted. The arbitrator may give directions to any person in attendance at a hearing who is rude or hostile or acts inappropriately. A person who does not comply with the arbitrator's direction may be excluded from the dispute resolution hearing and the arbitrator may proceed in the absence of that excluded party.

Considering the landlord had not received the tenant's Amendment prior to the hearing, and I did not hear enough testimony to make a determination on the tenant's request for a rent reduction or Monetary Order, that remedy is dismissed with leave.

Issue(s) to be Decided

Is it necessary and appropriate to issue orders for repairs and/or compliance to the landlord and/or the tenant?

Background and Evidence

On May 21, 2020 an Arbitrator issued the following orders in response to a proceeding that dealt with the tenant's previous Application for Dispute Resolution concerning a German Cockroach infestation (file number provided on the cover page of this decision):

Based on the above, I therefore make the following Orders:

- *As soon as possible, and not later than May 31, 2020, the Landlord must hire a licensed pest control company in good standing in the community, at their own cost, for the purpose of inspecting the rental unit itself, and any adjoining walls/floors/ceilings, or areas of ingress into the rental unit (such as doors, windows, ducting, etc.), and common areas of the residential property as required, for the presence of pests, and to complete any necessary or recommended pest control actions to resolve the pest issue in the rental unit.*
- *The initial pest control inspection must be completed as soon as possible, and not later than May 31, 2020, unless emergency or other orders by the government or the Branch in relation to COVID-19 prevent such an inspection, and in that case, the inspection must be completed as soon as possible after the emergency or other orders preventing the inspection are lifted and not more than seven days later.*

- *The Landlord must provide the Tenant with proof that the initial inspection was completed as ordered, and documentation from the pest control company stating what areas were inspected, what the results of the inspection were, and what the recommended course of action is to fully remediate the infestation as soon as possible after the inspection is completed and not more than 48 hours later.*

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- *If subsequent visits, inspections, or treatments are required by the pest control company, the Landlord must provide the Tenant with proof those inspections were completed as recommended, and documentation from the pest control company stating what areas were inspected or treated, what the results of the inspection or treatment were, and what the recommended next course of action is as soon as possible after the visit, inspection, or treatment is completed and not more than 48 hours later.*
- *The Landlord must comply with Part 2, section 8 of Ministerial Order No. M089, which can be found here: http://www.bclaws.ca/civix/document/id/mo/mo/2020_m089, or through the Branch website, with regards to entry to the rental unit by themselves, their agents, or the pest control company, unless the parties mutually agree to the date and time of the entry.*
- *The Tenant must not unreasonably restrict, deny, or delay entry to the Landlord, their agents, or the pest control company if their entry is for the purpose of complying with these orders, or unreasonably prevent the Landlord from complying with these orders in a timely manner.*
- *Once the required pest control actions have been completed and the pest control company is satisfied that the pest issue in the rental unit has been fully resolved, the Landlord must provide the Tenant with documentation from the pest control company stating that the pest issue has been fully resolved as soon as possible and not less than 48 hours after the pest control company has made this determination.*

The parties confirmed to me that the tenancy remains in effect at this time; a pest control technician was at the rental unit on August 17, 2020 for the purpose of inspecting and treating for German cockroaches; and, a follow-up inspection will be required. The landlord's manager stated that a follow up inspection is not yet scheduled but the follow up is supposed to be 3 months after the date of treatment.

The parties were also in agreement that on August 17, 2020 the pest control technician did not move the fridge. The tenant's agent was of the understanding this was because the fridge was too heavy due to food in the fridge. The landlord's manager stated the

fridge could not moved because the floor was too sticky due to food and drinks spilled on the floor and not cleaned up.

As for preparation instructions, no instructions were provided to the tenant in writing. Rather, the tenant's Advocate talked to the pest control company over the telephone and the tenant's agent passed along the message to the tenant that the rental unit needed to be cleaned in preparation for the pest control treatment.

The tenant stated that live cockroaches were observed yesterday, August 20, 2020. The landlord's manager stated live cockroaches will be seen for some time before the bait and poison applied by the pest control technician eradicate the cockroaches.

The landlord's manager testified that the fridge and stove in the rental unit need to be removed and replaced by the landlord as German cockroaches thrive in warm electronics. The landlord's manager also testified that the tenant's microwave and coffee maker also need to be removed from the rental unit for the same reason. Both parties provided consistent statements that the landlord wanted to remove the fridge and stove from the rental unit on April 27 or 28, 2020 but a dispute ensued between the parties and the appliances were not removed.

Analysis

The landlord has already been ordered to undertake pest control activities to deal with the German cockroach activity by way of the decision issued on May 21, 2020. I have been provided consistent evidence that pest control inspection and treatment took place on August 17, 2020; however, I find I have not been provided sufficient evidence that the infestation has or will be eliminated in the near future due to this one treatment and I find it likely that additional pest control activity by both parties will be warranted in this case.

In light of the above, I hereby order the following:

1. The orders issued on May 21, 2020 are replaced with the orders I make below.
2. The landlord shall fulfill any recommendations of the pest control technician, including performing further inspections and treatments, and diligently pursue eradication of the German cockroaches in the rental unit, other rental units on the residential property, and common areas of the residential property in a timely manner.

3. The landlord must deliver to the tenant copies of pest control invoices and/or written reports issued by the pest control company concerning the rental unit within two (2) days of receiving the document from the pest control company.
4. Prior to an inspection or treatment for pests in the rental unit the landlord shall provide the tenant with written preparation instructions if there are tasks the tenant is required to undertake to prepare the rental unit for the inspection or treatment of cockroaches. The written preparation instructions must be delivered to the tenant at least seven (7) days prior to the scheduled inspection/treatment.
5. The tenant must comply with the written instructions given to her as described above.
6. The tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access, as required under section 32(2) of the Act.
7. The tenant must follow any suggestions or recommendations made by the pest control technician, as described in writing by the pest control technician.
8. The tenant must not deny entry or treatment or any other recommended pest control actions of the landlord, landlord's agent, contractor or pest control technician upon receiving a written 24 notice of entry given by the landlord in accordance with section 29(2)(b) of the Act. As of June 24, 2020, the Ministerial Order No. 89 was rescinded and a landlord may enter a rental unit with a written 24 hour notice of entry.
9. The landlord must remove and replace the fridge and stove in the rental unit within seven (7) days of receiving this decision.
10. The tenant must remove the microwave and coffee maker from the residential property within seven (7) days of receiving this decision.
11. Once the required pest control actions have been completed and the pest control company is satisfied that the pest issue in the rental unit has been fully resolved, the landlord must provide the tenant with documentation from the pest control company stating that the pest issue has been fully resolved within two (2) after receiving this determination.
12. Should the tenant continue to observe live cockroaches in the rental unit after treatments or after the tenant received the documentation described in order 11 above, the tenant or her agent shall notify the landlord's manager immediately.
13. The tenant is to use the landlord's preferred service address, as recorded on the cover page of this decision, until such time the landlord notifies the tenant to use a different service address, in writing, if ever.

Conclusion

I have issued orders to both parties with this decision.

The tenant's request for a rent reduction or Monetary Order is dismissed with 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: August 21, 2020

Residential Tenancy Branch