



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT, MNDCT, OLC, DRI, RR, RP

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking the following relief:

- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement;
- an order that the landlord comply with the *Act*, regulation or tenancy agreement;
- disputing a rent increase;
- an order reducing rent for repairs, services or facilities agreed upon but not provided;
- an order that the landlord make repairs to the rental unit or property; and
- to recover the filing fee from the landlord for the cost of the application.

Both tenants and an agent for the landlord attended the hearing and each gave affirmed testimony. The landlord also called 1 witness who gave affirmed testimony. The parties were given the opportunity to question each other and the witness, and to give submissions.

No issues with respect to service or delivery of documents or evidence were raised and all evidence provided has been reviewed and is considered in this Decision.

Issues to be Decided

- Have the tenants established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement, and more specifically for recovery of monies spent to eradicate pests?

- Have the tenants established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement, and more specifically with respect to eradicating pests in the rental unit and complex and quiet enjoyment?
- Have the tenants established that rent has been increased contrary to the *Act* or the regulations?
- Have the tenants established that rent should be reduced for repairs, services or facilities agreed upon but not provided?
- Have the tenants established that the landlord should be ordered to make repairs to the rental unit or property?

Background and Evidence

The first tenant (MT) testified that this month-to-month tenancy began on November 4, 2019 and the tenants still reside in the rental unit. Rent in the amount of \$800.00 is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$400.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is an apartment on the main floor of a complex containing 4 floors.

A tenancy agreement was signed by the tenants and the landlord at the time on November 7, 2019, and a copy has been provided for this hearing. When new property managers came on, they required another tenancy agreement being signed, which was signed by the parties on January 31, 2020. The tenants didn't receive a copy of the latter tenancy agreement until the landlord served the tenants with evidence for this hearing.

The tenant testified that rent was agreed to at \$720.00 per month prior to moving in, but when the tenants arrived, the landlord at the time said that rent had been increased to \$800.00 per month. The tenants had no choice but to pay it because they had no where else to go.

A move-in condition inspection report was completed, and carpet in the bedroom was supposed to be replaced, however the landlord didn't do so saying that there wasn't time to do it, and told the tenants to cover the marks up with their bed. Also, an extremely strong smell existed in the bedroom which was not noticeable when the tenants looked at the rental unit. It was so strong it gave the tenant a headache and he couldn't breathe. The tenant had to leave and couldn't get fully moved in until November 9, 2020. The odor was bug spray of some sort on the carpet. The tenants put Arm & Hammer on the carpet and vacuumed the next day, and did it again. The smell wasn't as strong, but still noticeable. The tenants didn't talk to the landlord, believing it was something that they just had to deal

with. Further, the carpet in the bedroom hadn't been properly cleaned up against the baseboards, and the tenants seek an order that the landlord replace the carpet.

After moving in the tenants discovered that the rental unit was infested with bugs, and a neighbour on the top floor and one on the main floor had bedbugs. The tenants purchased some powder for bedbugs as a precaution. The tenants haven't found any bedbugs, but cockroaches still exist. The tenant thought he had it under control but is still finding them.

The landlord had the rental unit sprayed for cockroaches 6 or 8 weeks ago and was supposed to do it again 2 weeks later but said there weren't enough to worry about and didn't have it done a second time. The tenants were told they had to be out of the rental unit for 6 hours after spraying, but then were told they could return after 3 hours. No paperwork about what tenants were supposed to do was provided, but the tenants were asked by the landlord's witness to pull out a cabinet to ensure easy access. When the tenants returned, they found a container behind the stove with sticky stuff as well as one on top of the fridge. The tenants put all of their food in rubber-maid bins, as well as all the items in the cupboards. The cupboard above the fridge was full of a cockroach family. They are coming in under the door, which the tenant can't prevent, but he put a towel down to cover the hole around the door to try to prevent entry, but they're still there. The tenant told the landlord a couple of months ago that they enter under the door and into walls under baseboards.

The tenants seek an order that the landlords eradicate the bugs, and the tenant testified that the whole building would have to be done. The tenants also seek monetary compensation for sprays and powders that the tenants purchased to try to eradicate the bugs on their own, and copies of receipts have been provided for this hearing.

The tenant also testified that street people are getting into the building, and the tenant hears people yelling at them to get out. The buzzer system worked at the beginning of the tenancy, and was repaired after it had been damaged, but it isn't working. It buzzes, but the intercom system doesn't work. A photograph has been provided for this hearing.

The tenants have also provided a photograph of garbage in the common hallway of the floor that the tenants live on, and testified that the garbage had been there for more than 12 hours, and seeks an order that the landlord clean it up.

The rubber-made bins are now in the living room and the tenants are afraid to put stuff away due to sprays and bugs.

The tenants have also provided photographs of the ceiling which appears to be pulling away from the wall, which may be structural and may have been previously repaired, but is

not smooth like the rest of the ceiling. There is bubbling in the walls and ceiling as if pressure is pushing it down. The shower in the unit above is above it, and another bubbling seems to be starting. It should be looked at to ensure there's no real damage to worry about.

The tenant also testified that people have been in the rental unit when the tenants were not home, left a light on and the doorknob unlocked. The landlord changed it, but the tenant accidentally left his keys in the door and someone copied the key. The tenant replaced the lock on the doorknob and will return it to the one that belonged there. Now the landlord can't open the door.

When the tenant told the landlord about a leak in the window, the landlord had someone put a piece of metal across the top to stop the leak, but took a couple of months. Further, it had warped the frame around the window and needs to be replaced. The landlord said it would be replaced, but no date given.

The tenant also testified that marijuana smoking in the building is worse than second-hand cigarette smoking, and there must be a way to keep all tenants safe without jeopardizing their health.

The tenants seek an order that the landlords be respectful to the tenants, pay for costs associated with pest control in the amount of \$127.87, and recovery of \$80.00 per month for the entire tenancy due to the increased amount that the landlord charged for rent than what had been agreed to. The tenants also claim a rent reduction of \$400.00 for repairs, services or facilities agreed upon but not provided.

The tenants have given notice to end the tenancy effective October 31, 2020.

The second tenant (JLT) testified that on March 28 or 29, 2020 the building manager told the tenants that someone would arrive to replace the bedroom carpet at the beginning of April, 2020 and asked the tenants to move out what they could. The tenant has a broken back and moved as much as she could, and the tenants packed up, but no one showed up. The bedroom remained like that until mid-July when they put it all back.

The landlord's agent testified that no rent rebate is reasonable; the tenants could have approached the landlord in February about it, but it wasn't until a Notice of Rent Increase was served in August that the tenants approached the landlord.

With respect to bugs, the landlord's agent testified that the landlord gets on it as soon as the landlord's agents hear. The rental unit was sprayed once on August 7, 2020, and a

pest control person inspected on August 21, 2020 and found no bugs so they didn't spray again. The tenants have a lot of stuff around so it was difficult to get around. There may have been more bugs, but the landlord's agents were not advised of that.

The landlord's agent was unable to answer some of the questions put to her by the tenants, and referred the questions to the landlord's witness.

The landlord's witness testified that he has been the building manager in this rental property for 7 months, and for the landlord company for 11 years.

The witness further testified that the tenants advised him about cockroaches, so he brought in a pest control company who went to the rental unit on August 7, 2020 for the first application. Every room and all baseboards and the entrance were sprayed for cockroaches. The tenants' main concern was the kitchen and the witness asked them to move everything 6 inches away from walls and to open cupboard doors and drawers. The pest control people use long, pressurized and bendable tools.

The tenants were told to move stuff away from walls, but nothing was given in writing. The technician told the witness that they found very few bugs and completed the entire apartment at baseboard level with an odorless spray. The tenants were told to stay away for 6 hours as a precaution, however it was deemed by the professionals that 3 hours would be safe.

The second spray was scheduled for August 21, 2020 but deemed by the professionals as not required, which was discussed in the hallway outside the apartment. No one went back into the rental unit to check.

When asked about the bugs still in the rental unit, the witness replied, "We are working on it." The witness tells the professionals what units need to be sprayed, but leaves it to them to decide if they spray either side of the unit as well.

Analysis

With respect to the tenants' application disputing a rent increase, given that the tenants signed the tenancy agreements for rent in the amount of \$800.00 per month, I cannot find that the rent was increased contrary to the law, and I dismiss the tenants' application in that regard.

Since the tenancy is ending in less than 2 weeks, I also dismiss the tenants' application for an order that the landlord comply with the Act, regulation or tenancy agreement, and the application for an order that the landlord make repairs to the rental unit or property.

With respect to the tenants' monetary claims, I have reviewed all of the evidentiary material. The landlord's position is that the tenants didn't notify the landlord about bugs or the other unsatisfactory conditions of the rental unit. Considering the testimony, I don't accept that. It is clear that the tenants have suffered a bug infestation that has not been satisfactorily cleared up by the landlord. The landlord's agent also testified that there's a lot of stuff around so it is difficult for the technicians to get around it. Considering the testimony and the photographs, I am satisfied that there's stuff around because the tenants were either told to move it or cleaned out cupboards to protect their food and other items from bugs and bug sprays. The second tenant also testified that the tenants were asked to remove things from the bedroom at the end of March so that the carpet could be replaced at the beginning of April. The tenants' belongings stayed in the living room until July, 2020 and the carpet was never replaced. I find that the tenants have established a monetary claim in the amount of \$55.88 for Rubbermaid bins, \$26.61 for bug spray, \$45.38 for other bug treatments, for a total of **\$127.87**.

The tenants also seek a reduction in rent in the amount of \$400.00 for repairs, services or facilities agreed upon but not provided, as well as recovery of rent paid for the period of November 1 to November 9, 2019, which is when the tenants were first able to stay in the rental unit at the beginning of the tenancy. I accept the testimony of the tenants in that regard, and I find that the tenants have established a monetary claim for recovery of rent paid for the first month of the tenancy in the amount of **\$213.33** ($\$800 / 30 = \$26.66 \times 8 \text{ days} = \213.33). Again I reiterate my finding that the tenants have suffered a bug infestation that has not been satisfactorily cleared up by the landlord, and I find the claim to be reasonable for a tenancy that has lasted almost a year without results, and without completing work promised, and I grant a monetary order in favour of the tenants in the amount of **\$400.00**.

Since the tenants have been partially successful with the application, the tenants are also entitled to recover of the **\$100.00** filing fee.

Conclusion

For the reasons set out above, the tenants' application disputing a rent increase is dismissed without leave to reapply.

The tenants' application for an order that the landlord comply with the *Act*, regulation or tenancy agreement is hereby dismissed without leave to reapply.

The tenants' application for an order that the landlord make repairs to the rental unit or property is hereby dismissed without leave to reapply.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of **\$841.20**.

This order is final and binding and may be enforced.

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: October 21, 2020

Residential Tenancy Branch