



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding PACIFIC SANDS AND MARTELLO TOWER
PARTNERSHIP and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNRT, MNDCT, RR, RP, PSF

Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant on August 31, 2022, under the *Residential Tenancy Act* (the Act), seeking:

- Compensation for the cost of emergency repairs completed and paid for by them during the tenancy;
- Compensation for monetary loss or other money owed;
- A rent reduction for repairs, services, or facilities agreed upon but not provided;
- An order for the Landlord to complete repairs; and
- An order for the Landlord to provide services or facilities required by the tenancy agreement or law.

The hearing was convened by telephone conference call at 11:00 A.M. (Pacific Time) on January 19, 2023, and was attended by the Tenant and the agent for the Landlord named in the Application as a respondent, O.C. (Agent). All testimony provided was affirmed. As the Agent acknowledged service of the Notice of Dispute Resolution Proceeding (NODRP), and stated that there are no concerns regarding the service date or method, the hearing proceeded as scheduled. As the parties acknowledged receipt of each other's documentary evidence, and raised no concerns with regards to service dates or methods, I accepted the documentary evidence before me for consideration. The parties were provided the opportunity to present their evidence orally and in written and documentary form, to call witnesses, and to make submissions at the hearing.

The parties were advised that interruptions and inappropriate behavior would not be permitted and could result in limitations on participation, such as being muted, or exclusion from the proceedings. The parties were asked to refrain from speaking over

me and one another and to hold their questions and responses until it was their opportunity to speak. The parties were also advised that recordings of the proceedings are prohibited and confirmed that they were not recording the proceedings.

Although I have reviewed all evidence and testimony before me that was accepted for consideration as set out above, I refer only to the relevant and determinative facts, evidence, and issues in this decision.

Preliminary Matters

In their Application the Tenant sought remedies under multiple unrelated sections of the Act. Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As the Tenant stated that repairs are no longer required, I dismissed this claim with leave to reapply if necessary. I determined that the priority claims relate to a bed bug infestation, and I therefore exercised my discretion to dismiss the unrelated claim for the Landlord to provide services and facilities, specifically screen doors, with leave to reapply.

Issue(s) to be Decided

Is the Tenant entitled to compensation for the cost of emergency repairs completed and paid for by them during the tenancy?

Is the Tenant entitled to compensation for monetary loss or other money owed?

Is the Tenant entitled to a rent reduction for repairs, services, or facilities agreed upon but not provided?

Background and Evidence

The parties agreed that there was a bed bug infestation in the rental unit which began in approximately July of 2022, that the Tenant notified the Landlord appropriately of the possible presence of bed bugs, and that the Landlord took action to resolve the infestation. However, they disputed who was responsible for the infestation, and therefore any costs associated with it, and whether the Landlord acted reasonably with

regards to pest control efforts. The Tenant stated that they are not responsible for the bed bug infestation as they lived in the rental unit for almost one year prior to the infestation without issue, all furniture brought into the rental unit was new, and were advised by other occupants of the building that the tenant across from them had bed bugs before they moved out.

The Tenant stated that the infestation was so bad that their roommate, who is their mother, had to move out and fly home to another country, and that they often could not sleep during the infestation, which lasted 2.5 months. The Tenant stated that the Landlord blamed them for the infestation, tried to make them responsible for pest control costs, and overall failed to act diligently in dealing with the issue. The Tenant stated that the lack of empathy and action by the Landlord was very difficult and frustrating for them. The Tenant sought \$100.00-\$150.00 for the cost of pest control sprays purchased, \$600.00-\$700.00 for loss of quiet enjoyment, \$1,050.00 for the cost of replacing furniture disposed of due to the infestation (such as a bed, mattress, pillows, sheets, and small rug), \$1,500.00 for the cost of their mother's flight, and \$2,300.00 in rent reductions (50% of rent paid over the 2.5 month period of the infestation). The Tenant submitted documentary evidence including photographs, invoices/receipts, copies of communications with the Landlord, copies of online reviews for the building/Landlord, and copies of pest control invoices/reports in support of their claims and testimony.

The Agent denied failing to act diligently, stating that they had the rental unit inspected by maintenance expediently after the Tenant reported a possible bed-bug issue. The Agent stated that they subsequently had the rental unit, as well as surrounding rental units inspected, and that the rental unit was treated on several occasions. Although the Agent acknowledged that more than one treatment and inspection was required to deal with the infestation, they argued that this is normal and does not constitute a lack of action or due diligence on the part of the Landlord. The Agent stated that when the Tenant's rental unit and several surrounding units were inspected by the pest control company, the Tenant's rental unit was the only one found to have bed bugs. As a result, and as the Agent stated that between 2014 and now no other unit in the building has ever had bed bugs, they believe that the Tenant is responsible for the infestation and should therefore bear all costs associated with it. The Agent also denied that the Tenant's mother was their roommate, instead arguing that she was meant to be a temporary guest. The Agent submitted three pest control invoices/reports in support of their position.

Analysis

Is the Tenant entitled to compensation for the cost of emergency repairs completed and paid for by them during the tenancy?

Although the Tenant sought \$700.00 in compensation for the cost of emergency repairs paid for and completed by them, I am not satisfied that the Tenant completed or paid for emergency repairs in accordance with section 33 of the Act. The Tenant was actually seeking compensation for furniture disposed of and replaced due to a bed bug infestation. As a result, I have considered this below as part of their claim for compensation for monetary loss or other money owed.

Is the Tenant entitled to compensation for monetary loss or other money owed and/or a rent reduction?

Section 32(1) of the Act states that a landlord must provide and maintain residential property in a state of decoration and repair that complies with health, safety, and housing standards required by law, and taking into consideration other factors, such as the age, character, and location of the building, makes it suitable for occupation by a tenant. Residential Tenancy Policy Guideline (Policy Guideline) #1 states that landlords are generally responsible for major projects, such as insect control.

I do not accept the Agent's statement that no other unit in the building has had bedbugs between 2014 and the date of the hearing, as nothing was submitted by the Agent to corroborate this testimony and the Tenant denied this was the case. While I accept that none of the other four units or hallways checked by the pest control company for bedbugs at the time of the infestation showed signs of infestation, as this is supported by the pest control invoices/reports, I am not satisfied that the rest of the large multi-floor building was absent of bed bugs as the remainder of the building was not checked. Further to this, the Tenant explicitly stated in communications to the Landlord that the bed bugs were entering the rental unit through heating vents, yet no evidence or testimony was submitted showing that the heating system for the building was investigated.

As a result of the above, and given that the Tenant occupied the rental unit for almost one year prior to the bed bug infestation, I am satisfied on a balance of probabilities that the Tenant, their guests, and/or other occupant(s) of the rental unit were not responsible for the bed bug infestation. As a result, and pursuant to Policy Guideline #1 and section

32(1) of the Act, I therefore find that it was the Landlord's responsibility to deal with the bed bug infestation.

Having made this finding, I will now decide if the Tenant is entitled to the compensation sought. Although the Tenant argued that their roommate/mother was required to fly home to another country as a result of the infestation, I am not satisfied that this is the case. The Tenant acknowledged during the hearing that their mother is on a visa and must return to their home country periodically before re-entering Canada. As a result, I am not satisfied that the infestation was the reason for their flight. Further to this, I am not satisfied that this was either the only available response, or a reasonable response, to the bed bug infestation. As a result, I dismiss the Tenant's claim for recovery of the \$1,500.00 paid for this flight, without leave to reapply. Similarly I dismiss the Tenant's claim for 50% of the rent paid during the period of the infestation, as I am not satisfied that their mother's absence from the rental unit, and therefore their decision not to pay the Tenant rent for that period, was the result of the bed bug infestation. As the Tenant did not submit any evidence in support of their testimony that they spent \$100.00-\$150.00 on pest control supplies, I find that they have failed to satisfy me this is the case and I also dismiss their claim for recovery of these costs without leave to reapply.

Although the Tenant argued that the Landlord failed to act diligently in response to the bed bug infestation, I disagree. Pest control invoices/reports submitted by both parties show that the Landlord had a pest control company inspect and treat as needed, the rental unit as well as four surrounding rental units and three hallways on July 20, 2022. Pest control invoices/reports also show that the rental unit was re-inspected on August 20, 2022. Further to this, the Agent stated that the rental unit was inspected by maintenance shortly after the Tenant reported the issue to them, which the Tenant did not dispute. An email between the Tenant and the Agent O.C. on July 13, 2022, also shows that the Tenant had the first inspection and treatment delayed by almost one week, as they did not wish to have the rental unit treated until after their mother had vacated.

While I appreciate that the Tenant wanted faster resolution, I am satisfied that the Landlord acted, at least for the most part, reasonably and diligently to have the rental unit as well as several surrounding rental units and hallways professionally inspected and treated, and that the length of time it took for the bed bug infestation to be fully resolved was largely due to the nature of bed bug infestations and the time required for eradication methods to be fully effective, as well as their own request to delay initial treatment, rather than a lack of action on the part of the Landlord. As a result, I dismiss

the Tenant's claim for compensation in the amount of \$600.00-\$700.00 for loss of quiet enjoyment without leave to reapply.

However, I am satisfied that the Tenant suffered the loss of several pieces of furniture, specifically a fabric bed frame and mattress which could not be adequately treated, as a result of the infestation. As I have already found above that the Landlord is responsible for the infestation and associated costs, I therefore grant the Tenant recovery of the costs incurred to replace the bed frame and mattress (as shown in the submitted invoices), in the amount of \$539.83, pursuant to sections 7 and 32(1) of the Act. Although the Tenant also sought recovery of costs to replace a rug, pillows, and sheets, I dismiss these claims without leave to reapply as I find that the Tenant could have mitigated these losses by having these items properly laundered.

Pursuant to section 67 of the Act, I therefore grant the Tenant a Monetary Order in the amount of \$539.83, and I order the Landlord to pay this amount to the Tenant.

Conclusion

Pursuant to section 67 of the Act, I grant the Tenant a Monetary Order in the amount of **\$539.83**. The Tenant is provided with this Order in the above terms and the Landlord must be served with this Order as soon as possible. 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.

In lieu of serving and enforcing the Monetary Order, the Tenant is permitted to withhold \$539.83 from the next months rent due under the tenancy agreement in recovery of this amount, should they wish to do so, pursuant to section 72(2)(a) of the Act. The Tenant must not both deduct this amount from rent and enforce the Monetary Order. They must choose one or the other.

This decision has been rendered more than 30 days after the close of the proceedings, and I sincerely apologize for the delay. However, section 77(2) of the Act states that the director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30-day period in subsection (1)(d). As a result, I find that neither the validity of this decision and the associated order, nor my authority to issue them, are affected by the date of this decision and the associated order.

This decision is made on authority delegated to me by the Director of the Branch under Section 9.1(1) of the Act.

Dated: March 1, 2023

Residential Tenancy Branch