



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding SELECT REAL ESTATE PROPERTY MANAGEMENT DIVISION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

An agent for the landlord and 2 of the named tenants attended the hearing. The parties each gave affirmed testimony and were given the opportunity to question each other and to give submissions.

The landlord has not provided any evidentiary material for this hearing, and one of the tenants testified that all evidence of the tenants was provided to the landlord. The landlord's agent did not dispute that testimony, and all evidence of the tenants has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Have the tenants established that the landlord should be ordered to comply with the *Act*, regulation or tenancy agreement, specifically with respect to exterminating pests?

Background and Evidence

The first tenant (JA) testified that this fixed term tenancy began on April 1, 2022 and reverted to a month-to-month tenancy after the first year, and the tenants still reside in the rental unit. Rent in the amount of \$2,200.00 was payable on the 1st day of each month, which was increased by \$44.00 effective on June 1, 2023. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of

\$1,100.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a single family house.

The tenant further testified that 3 months after moving in, the tenant notified the landlord that cockroaches had been noticed in the kitchen and baseboards in the bathroom, as well as an ant problem in the bathroom, particularly around the molding in the bathtub. There was also a sewage smell in the bathroom and the sink was backed up and plugged. The tenants bought ant traps and tried liquid plumber for a few days, but that didn't help, and told the landlord that the tenants could not remedy it. The landlord company said the owner would be contacted, and a plumber dealt with the bathroom sink, but nothing else has been dealt with since.

A pest control person reached out to the tenant on September 16, 2022 because the landlord had it in motion to have them deal with pests, but the owner halted it saying that he wouldn't deal with it and it was the tenants' problem. The house is now for sale, and speaks to the landlord's unwillingness to deal with the issues. There are still cockroaches, and it's worse having been left for so long. All appliances will have to be thrown out, as the tenant guarantees that all are infested. Also, ants are still in the bathtub and the sink is plugged. A crawl space outside is wide open and there are pests under there. Pipes froze in the winter. Also the pest person mentioned a garage on the property, which is not part of the rental, is probably a huge source of a rat problem because it's condemned and jammed full of stuff.

The tenants maintain a clean house and deal with waste and recycling. The tenants have done regular lawn mowing but don't have the resources to cut the long vegetation by the house.

Photographs and copies of messages exchanged between the parties have been provided for this hearing.

The second tenant (RH) testified that within the first few months of the tenancy the tenants reported rats getting in behind the stove. Expanding foam had been sprayed previously and the tenant has done it again. The tenant has killed 2 rats inside, and can still hear them in the walls at night in the kitchen scratching and such. The tenants can also hear the chattering of raccoons under the house.

The tenant mows the grass every week or 2 and has a weed-eater, however there are blackberry vines against the house and the tenant does not have the capabilities to deal with it. The tenants make sure there's no garbage outside and make sure everything is upkept.

The landlord's agent testified that it's been a stance of the owner that the cause of pests is due to the neglectful actions of the tenants, by not removing the greenery of the exterior and due to the condition of the interior of the house. The owner says it's messy and unclear, and reports that the landlord's agent has is that the interior is fair or poor. Inspections are done every 2 months. The exterior has a significant amount of items, causing the infestation, and Clause 56 of the tenancy agreement states that the tenants must pay the cost of extermination as a result of the tenants' use of the premises.

SUBMISSIONS OF THE TENANTS:

The only things in the yard are garbage cans, the tenant's newly built trailer and car. Everything that the landlord says is not true, the rental home is nice and clean and tidy. The previous tenant had 5 kids and the landlord had to remove all items, and is now blaming the tenants.

SUBMISSIONS OF THE LANDLORD'S AGENT:

The owner wants to deal with the issue on the property that he feels is fair for him to deal with. The pests are the direct actions of the tenants. The landlord received a quote for pest control and the owner instructed the landlord's agent that the cause was due to the actions of the tenants.

Analysis

A landlord must provide and maintain a rental unit in a state of decoration and repair that makes it suitable for occupation by a tenant. In this case, the landlord does not dispute that there are pests, but contends that the pests are attracted by the tenants, which is disputed by the tenants.

The tenants have provided evidence of having informed the landlord about the plugged sink, a sewage smell, rats, cockroaches and ants. The tenants have also provided a photograph of the house and a portion of the rental property. The only items seen in the yard are the For Sale sign and a bicycle. The landlord has not provided any evidence, specifically any evidence of any inspections, having testified that inspections are completed every 2 months. The landlord's agent also testified that reports he has is that the interior is fair or poor. If those reports are oral, they are hear-say only. If the reports are in writing, they ought to have been provided for this hearing.

The landlord did not dispute the tenant's testimony that the crawl space is open. That in itself can attract rodents and raccoons.

In the circumstances, and considering the evidence and testimony of the parties, I find that the pest control issue lies with the landlord.

I order the landlord to retain the services of pest control personnel to eradicate all of the pests by no later than June 30, 2023, and to take measures as suggested by the pest control personnel.

Since the tenants have been successful with the application the tenants are entitled to recovery of the \$100.00 filing fee. I grant a monetary order in favour of the tenants as against the landlord in that amount, and I order that the tenants be permitted to reduce rent for a future month by that amount, or may serve the order to the landlord and file it for enforcement in the Provincial Court of British Columbia, Small Claims division as an order of that Court.

Conclusion

For the reasons set out above, I hereby order the landlord to retain the services of pest control services by no later than June 30, 2023 to eradicate all pest issues in the rental home and to follow all recommendations of pest control personnel.

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 \$100.00 and I order that the tenants be permitted to reduce rent for a future month by that amount, or may otherwise recover it.

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: June 23, 2023

Residential Tenancy Branch