

IN THE MATTER between **L.K.**, Applicant, and **L.G.**, Respondent.

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5
(the "Act");

AND IN THE MATTER of a hearing before **Hal Logsdon**, Rental Officer,

BETWEEN:

L.K.

Applicant/Tenant

-and-

L.G.

Respondent/Landlord

REASONS FOR DECISION

Date of the Hearing: December 3, 2018

Place of the Hearing: Yellowknife, NT

Appearances at Hearing: L.K., applicant
Z.T., representing the respondent
C.T., representing the respondent

Date of Decision: December 11, 2018

REASONS FOR DECISION

The parties entered into a monthly tenancy which appears to have commenced on April 1, 2018. The agreement was made in writing but a copy was not made available at the hearing. The premises consist of a room in a mobile home. Three other rooms were rented and the kitchen and two bathrooms were shared by tenants. The monthly rent for the premises was \$500 and a security deposit of \$500 was paid in full.

The applicant testified that the mobile home was infested with cockroaches. He first noticed the insects, which were primarily in the kitchen “a few weeks” after he moved in. The applicant stated that he notified the respondent who promptly sprayed the unit with an off-the-shelf insecticide.

The applicant stated that sometime later, a professional exterminator inspected the mobile home and told him the extermination would be very costly and he would be better off just moving out. The applicant stated that the infestation gradually worsened, preventing him from using the kitchen facilities. When cockroaches began to be found in his room, he moved out. The applicant appears to have vacated the premises on or about June 30, 2018. His security deposit was returned to him in full.

The applicant stated that a number of personal articles, mostly kitchen accessories had been damaged by the cockroaches. He stated that he had left them in the premises when he vacated. He testified that none of the items could be cleaned sufficiently to remove the threat of diseases that cockroaches often carry. The applicant provided photographs of the items as well as photographs showing evidence of the cockroaches. The applicant sought monetary compensation of \$577.23 for the loss of the following items:

- rice cooker
- blender
- hocky bag
- coffee maker
- espresso machine

As well the applicant sought \$20 compensation for his luggage and \$12.08 for photocopying and photographic printing.

The respondent stated that they were notified of the infestation on April 2, 2018 and that the unit was sprayed by their own staff or the tenants several times during the month. They confirmed that a professional exterminator inspected the premises but was not contracted to do the work due to the expense. The respondent testified that another professional exterminator was contracted to do the work and sprayed the unit on April 30, 2018. The respondent testified that the exterminator advised him that the unit would need multiple treatments to ensure the infestation was brought under control and would be most effective if tenants thoroughly cleaned the premises; washing dishes, washing and bagging clothing, covering food, etc.

The respondents testified that the applicant notified them on May 13, 2018 stating that he could not bear the situation any longer. The respondents testified that, in response, they notified all of the tenants that anyone could break their lease without consequences and receive a full refund of their security deposit.

The respondents testified that they decided that the best course of action would be to notify the tenants that they wished to have the building vacant so a complete and effective extermination might be achieved. The respondents testified that a notice was sent to all of the tenants terminating the tenancy agreements on June 30, 2018.

It would appear that all of the tenants vacated voluntarily. Notwithstanding the applicant's testimony that he was "evicted" from the premises, I find no evidence to suggest that the respondents physically interfered with any of the tenants' possession or threatened to do so. I find no breach of s.34 of the *Residential Tenancies Act*.

I have not seen the notice sent to the tenants, but note that there is no provision in the Act for the issuance of a notice of termination in these circumstances. Section 59 of the Act provides an avenue for termination of a tenancy agreement when major repairs requiring vacant possession are required but requires an application.

Section 30 of the *Residential Tenancies Act* obligates a landlord to maintain the rental premises in a good state of repair.

30. (1) A landlord shall

- (a) provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy; and*

(b) ensure that the rental premises, the residential complex and all services and facilities provided by the landlord comply with all health, safety and maintenance and occupancy standards required by law.

It is clear that maintaining rental premises free of pests and vermin is an obligation of the landlord. Did the landlord, take reasonable steps to address the problem once it was identified? Subsections 5 and 6 provide additional clarity.

(5) A tenant shall give reasonable notice to the landlord of any substantial breach of the obligation imposed by subsection (1) that comes to the attention of the tenant.

(6) A landlord shall, within 10 days, remedy any breach referred to in subsection (5).

The landlord took prompt initial action, well within the time set out in the Act, to address the problem. However, as in many cases involving extermination of insects, one treatment is rarely sufficient to resolve the problem and a full remedy of the problem was not achieved within 10 days. I find the respondent in breach of s.30.

Does the compensation claimed by the applicant represent an accurate loss suffered by the applicant? In my opinion, it does not. Most of the articles considered damaged beyond repair are regular kitchen accessories. They are designed to be washed, cleaned and sanitized for multiple uses. There is no part of them which is intended to be handled or to be in contact with food that cannot be cleaned and disinfected. The hockey bag can be easily washed to eliminate any danger. The photocopying and photographic costs are the applicant's responsibility as part of the application process. I find no grounds for compensation with regard to the loss of these items.

However, it is apparent that the worsening infestation eventually deprived the applicant of the use of the kitchen. Although his room, which was not significantly infected until late in the term, had a fridge and a microwave, the applicant did suffer the loss of the full ability to cook. In my opinion, this loss of full enjoyment would be fully compensated by a 20% reduction of rent for the months of May and June, 2018. I calculate that amount to be \$200 (20% x \$1000).

An order shall issue requiring the respondent to pay the applicant compensation for loss of full enjoyment of the rental premises in the amount of \$200.

Hal Logsdon
Rental Officer