



**Order under Section 30
Residential Tenancies Act, 2006**

Citation: Frobels v Manor Park Estates, 2023 ONLTB 39644

Date: 2023-05-29

File Number: LTB-T-003351-22

In the matter of: 911 Glasgow
Ottawa ON K1K0J3

Between: Adam Ovari Tenants
Chantal Frobels

And

Manor Park Estates Landlord

Adam Ovari and Chantal Frobels (the 'Tenants') applied for an order determining that Manor Park Estates (the 'Landlord') failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

This application was heard by videoconference on April 4, 2023.

Only the second-named Tenant attended the hearing.

As of 11:53am, the Landlord was not present or represented at the hearing although properly served with notice of this hearing by the LTB. There was no record of a request to adjourn the hearing. As a result, the hearing proceeded with only the Tenants' evidence

Determinations:

1. The Tenants have applied to the Board for an order determining that the Landlord failed to meet the Landlord's maintenance obligations pursuant to section 20(1) of the Act by failing to promptly and effectively treat the rental unit and the rental complex for bedbugs.
2. The Tenants have been living in the rental unit since April 2017.

3. In or around April 1, 2021, the Tenants discovered they had bedbugs in their rental unit. They reported the issue to the Landlord. The Landlord responded by having the pest control company, Terminex, treat the unit for bedbugs.
4. The Tenant testified that when Terminex attended the unit, a supervisor from Terminex also attended the neighbouring unit in which the Tenants share a wall with. The Supervisor determined that due to the lack of preparation from the neighbour, as well as the lack of the neighbour's upkeep of the unit, the neighbour's rental unit was the source of the bedbug infestation.
5. The Tenant stated that when talking to the Landlord, she discovered that the neighbouring unit was actively refusing treatment. The Landlord stated that they were attempting to evict the neighbour however no evidence or proof was ever presented to the Tenants that the Landlord had actually pursued this course of action with the neighbour. The Tenant testified that on one occasion, the Landlord told the Tenants that if they did not appreciate the way the Landlord was handling the pest treatments, they can move.
6. In August 2021 the Tenants were told by an employee of Terminex to dispose of their wood bedframe because the bedbugs had begun nesting deep in the parts of the bedframe and it would be impossible to fully treat the frame and exterminate all of the eggs and bedbugs within it.
7. The Tenant stated that they were constantly having to use their clothes dryer on a high setting to treat their clothing and bedsheets. The excessive use caused a total increase of their electrical bill of \$200.00 since the bedbug treatments began.
8. The Tenant stated that the Landlord switched pest control companies from Terminex to Orkin in February 2023. Although the intensity of bedbug issues has been reduced, the bedbugs have not been eliminated from the unit as of the hearing.
9. As of the hearing date, the neighbour is still in possession of their rental unit.
10. The Tenants are seeking out of pocket expenses of \$200.00 for the extra electricity required to use their clothes dryer from 2021 up until the hearing date and \$497.96 to replace the bedframe that had to be disposed of due to the bedbug infestation.

Analysis

11. Pursuant to section 20(1) of the Act, the Landlord is responsible for the maintenance of the rental unit as well as the rental complex. This includes treatment for bedbugs.
12. In *Onyskiw v. CJM Property Management Ltd.*, 2016 ONCA 477, the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue

reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs. In this case, did the Landlord promptly and effectively treat the bedbug issue in the Tenants' rental unit?

13. In the Tenant's testimony, she alluded to a conversation that she had with the Landlord where the Landlord stated that their neighbour is proving difficult to evict. However, this is evidence that would have carried weight had it come from the Landlord had they chose to attend the hearing.
14. If the Landlord had been present and gave evidence that they had been attempting to deal with the neighbouring unit's pest issues, such as addressing notices to enter, notices of termination due to the Tenant's interference with the Landlord (an N5 Notice), treatment reports from the pest control company, or hearing results regarding the neighbouring tenant, then it could have been determined that the Landlord was acting in a reasonable manner and was not in breach of section 20(1) of the Act. Without that information, I do not have enough evidence before me to determine whether the Landlord acted in a reasonable manner to resolve this maintenance issue or if the Landlord was just saying this to the Tenants to placate their concerns. In the absence of this information, I am not satisfied that the Landlord treated the unit and complex for bedbugs in an effective manner.
15. I am satisfied, based on the evidence before me, that the Landlord has breached section 20(1) of the Act by failing to promptly and effectively treat the rental unit and the complex for bedbugs.
16. Therefore, the Landlord must pay the Tenants a total of \$745.96 which accounts for the replacement value of the bedframe, the out-of-pocket electric utility expenses incurred by the Tenants for the excess use of their clothes dryer for the purpose of pest treatment, and the filing fee incurred by the Tenants to file this application.

It is ordered that:

1. The Landlord shall pay the Tenants is \$745.96. This amount represents:
 - \$497.96 for the reasonable costs that the Tenants have incurred to replace property that was disposed of as a result of the Landlord's actions.
 - \$200.00 for the reasonable out-of-pocket expenses that the Tenants have incurred.
 - \$48.00 for the cost of filing the application.
2. The Landlord shall pay the Tenants the full amount owing by May 12, 2023.
3. If the Landlord does not pay the Tenants the full amount owing by May 12, 2023, the Landlord will owe interest. This will be simple interest calculated from May 13, 2023, at 6.00% annually on the balance outstanding.

4. If the Landlord does not pay the Tenants the full amount owing by May 12, 2023, the Tenants may recover this amount by deducting the full amount of \$745.96 from the rent owing on June 1, 2023.
5. The Tenants have the right, at any time, to collect the full amount owing or any balance outstanding under this order.

May 29, 2023
Date Issued

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

Robert Brown
Member, Landlord and Tenant Board

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.