

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
ON APPEAL FROM AN ORDER OF THE
DIRECTOR OF RESIDENTIAL TENANCIES
Citation: *Dominix v. Watts*, 2019 NSSM 6**

BETWEEN:

AMANDA DOMINIX

Tenant (Appellant)

- and -

AMANDA WATTS and RYAN McKENNA

Landlords (Respondents)

REASONS FOR DECISION AND ORDER

BEFORE

Eric K. Slone, Adjudicator

Hearing held at Halifax, Nova Scotia on February 5, 2019

Decision rendered on February 7, 2019

APPEARANCES

For the Tenant self-represented

For the Landlords self-represented

REASONS FOR DECISION

[1] This is an appeal by the Tenant from a decision of the Director of Residential Tenancies dated November 23, 2018, which denied the Tenant's claim to be compensated for the value of a bed, mattress and dresser which were disposed of following a growth of mould in the subject unit.

[2] The amount that the Tenant seeks is \$930.33 in total for the bed, mattress and dresser. The mattress makes up more than half the total. The Residential Tenancy Officer concluded that the Landlords were not responsible for this loss, though her reasons for that conclusion are not elaborated.

[3] The unit in question was a basement apartment. The Landlords testified that they had never had a problem with mould in all of the years with prior tenants, who were careful to run a de-humidifier - particularly in the summer when humidity levels are high. According to the Tenant she had a small de-humidifier which she ran sporadically. Probably that was not enough to counteract the effects of a very humid summer of 2018.

[4] I can find no actionable negligence on the part of the Landlords. The evidence suggests that a part of the problem was the design of the bed which did not allow for air circulation and which may have created an unusually fertile environment to grow mould. The prompt actions of the Landlord to remediate the mould are also beyond reproach.

[5] The Tenant says that the Landlords are nevertheless responsible because they insisted (so she says) that she junk the furniture rather than have it cleaned.

She says that this was unnecessary and cost her the value of these items. Regrettably, her insurance policy did not cover damage from mould.

[6] The Landlords say that they only insisted that the furniture be removed to allow the apartment to be thoroughly cleaned and treated. They say that the Tenant made the decision to trash the items herself.

[7] There are lengthy text messages between the Tenant and Landlord Amanda Watts. The following brief exchange on September 6 (3 days after the mould was first discovered) is critical:

Landlord: Good morning Amanda, just wanted to follow-up to see what your plans were for your bed so we can get the unit cleaned.

Tenant: I was prepping the bed to take it out and discovered that my mattress also has mould on it. 311 said that I can't put the bed and mattress and drawers out for the same collection date so I have to take it to the disposal place.

Landlord: Okay I called and they said we can clean the mattress if you wanted to have that done rather than throw it out? Or if you don't want to we can take it to the dump if you'd like and if you don't have a truck.

Tenant: Hi Amanda, I am going to see if my boyfriend can haul it to the dump in his trailer. As to the mattress everything I have read says that because it is memory foam I should get rid of it because the mould spores would have gotten into the air pockets in the mattress and are nearly impossible to remove.

[8] This exchange strongly supports the view that the Landlord was not insisting that the Tenant dispose of everything. Perhaps the Tenant took that from some of the verbal exchanges, but the texts strongly point to the Landlords being open to something else such as cleaning.

[9] The Landlords had nothing to gain by requiring the Tenant to trash her furniture. They simply wanted it removed to allow cleaning. The Tenant admitted that she did some searching on the internet and she must have learned that furniture can be cleaned. She testified that she learned that the mattress could be cleaned (which is contrary to what her text said), which suggests that she must also have looked into whether the wood furniture could be cleaned. Logically a soft, porous mattress would be harder to rid of mould spores than solid wood.

[10] Accordingly, I conclude that the Landlords did nothing actionably wrong. They did not breach any term of the lease. Nor did they misspeak in such a way that might give rise to a claim for misrepresentation, although I even have my doubts that such a claim would be enforceable through Residential Tenancies.

[11] In the result, I agree with the Residential Tenancy Officer and the appeal is dismissed.

ORDER

[12] The appeal stands dismissed.

Eric K. Slone, Adjudicator