



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: MNDC OLC RP FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for money owed or compensation under the Act, regulation or tenancy agreement; an order that the landlord comply with the Act, regulation or tenancy agreement; an order that the landlord make repairs; and recovery of the filing fee for the cost of the application.

Issue(s) to be Decided

Should orders be made that the landlord comply with the Act, regulation or tenancy agreement?

Should an order be made that the landlord repair the roof?

Is the tenant entitled to monetary compensation on the grounds claimed?

Is the tenant entitled to recovery of the filing fee?

Background and Evidence

The evidence of the tenant was as follows. The tenancy began at the end of February 2008, with monthly rent in the amount of \$1600. The tenant believed at the time he entered into the lease that 6 or 7 acres of land and a barn were included in the lease, and the tenant would not have rented the property if the land and barn were not included. Approximately two months after the tenant moved in, he noticed that the roof was leaking and causing water damage to some of the tenant's possessions. The tenant made several phone calls to the landlord to inform them of the leaks, but the roof

was not repaired and it continues to leak. Approximately three months into the tenancy, the landlord informed the tenant that the land and barn were not included in the lease. In July 2008 the well that supplies water to the rental unit ran dry, and the tenant had to purchase and haul water to his home. Finally, on several occasions the landlord's agent would come on to the property without providing the tenant with any notice, the tenant raised the issue with the landlord's agent, but the agent continued to show up without any notice to the tenant. The tenant seeks monetary compensation of \$3500 for work he missed out on because of loss of use of the barn, reimbursement of the money he had to spend to buy water and pay for gas to haul the water, and time he had to miss from work to deal with these matters.

The landlord's response was as follows. The land and barn were never included in the lease, and though the tenant was not explicitly told this at the outset of the tenancy, it was implied by the fence that separates the barn from the house. Further, the landlord had concerns that the tenant was using the barn and land for commercial purposes. The landlord stated that the municipality requires quarterly inspections of the property, and that in the past the landlord's agent had to attend the property because the tenant's rent cheques kept bouncing. The landlord denied ever having been informed of the roof leaks. The tenant was well aware that the water was supplied by a well, and it is the tenant's responsibility to deal with it.

Analysis

I find that the tenant would not have rented the property if the barn and land were not included, and as the landlord never indicated that the land and property were not included, it was reasonable for the tenant to assume that they were included. I find that the inclusion of the land and barn therefore form a material term of the tenancy, and the landlord may not deprive the tenant of the use of the land and barn.

The landlord may not attend on the rental property without giving the tenant proper notice as set out in the Act.

I accept the tenant's evidence that the roof needs repairs and that the tenant attempted to bring the issue to the attention of the landlord on more than one occasion.

I accept the tenant's evidence that the well ran dry for three weeks and as a result he had to purchase and haul water. I do not accept the landlord's position that the tenant is responsible for dealing with any problems related to the well, as the landlord did not provide any evidence that the tenancy agreement or any other agreement with the tenant required him to deal with problems with the well. The tenant did not provide receipts for the cost of purchasing and hauling water; I therefore find \$200 is reasonable compensation for purchasing and hauling water for three weeks.

I find that the tenant is not entitled to monetary compensation for work he may have lost out on due to loss of use of the barn or for time missed from work.

The tenant is entitled to recovery of the filing fee.

Conclusion

I order that the landlord comply with the Act, regulation or tenancy agreement by not depriving the tenant of use of the land and barn. I further order that the landlord comply with the Act by giving the tenant proper notice before attending on the rental property.

I order that the landlord repair the roof forthwith. If the landlord does not complete the roof repairs within a reasonable time, the tenant may make an application for a reduction in rent.

The tenant is entitled to total monetary compensation of \$250, which he may deduct from next month's rent.

Dated September 8, 2008.