



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issues(s) to be Decided

This is a request for a monetary order for \$2185.00.

Background and Evidence

The applicants testified that:

- The dishwasher and rental unit was not working properly and therefore in October of 2008 they requested that it be looked at.
- The landlords had an appliance repairman come who recommended that the dishwasher be replaced.
- A new dishwasher was purchased by the landlords and was installed in late November 2008.

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- On December 19, 2008 the new dishwasher failed to drain properly and therefore the tenants discontinued using the dishwasher however on December 20, 2008 they noticed an overwhelming mould smell coming from the dishwasher area.
- On December 21, 2008 the landlord advised the tenants to no longer use the dishwasher and to try and clean up any standing water.
- The applicants disconnected and removed the dishwasher and found mould and standing water underneath.
- The applicants cleaned up the water and mould as best they could but then had to live with the unsanitary mouldy conditions until Remax got the approval from the landlord to do the repairs.
- They were informed by the repair man that it would take approximately 3 to 5 days to do all the repairs needed and therefore since the kitchen would not be functional they decided to stay with family during the repairs.
- They had to stay with family for a total of seven days because the repair took longer than they had been told.
- It was actually cheaper to stay with family than it was to claim on their insurance and pay the \$500.00 deductible.
- When they did get back into the rental unit they had to do substantial cleaning of dust that was caused by the repairs in the kitchen and the dishwasher was still not working and in fact was leaking underneath.
- After more investigation it was found that the dishwasher was faulty and since it was a new dishwasher and under warranty, Sears, after two attempts, managed to repair the dishwasher by February 12, 2009.

The applicants are therefore requesting a monetary order as follows:

no dishwasher	\$10 a day	47 days	\$470.00
Money paid to family	\$50 a day	Seven days	\$350.00

to use their home			
Labour for cleaning etc.	\$20 an hour	9 hours	\$180.00
Pain and suffering	\$20 a day	47 days	\$940.00
Filing fee			\$50.00
Total			\$2235.00

The respondent\landlords testified that:

- The tenants did inform them of a problem with the dishwasher and that when their appliance repairman attended, he informed them that it was not worth repairing and should be replaced.
- A new dishwasher was purchased in November however it was not replaced until December 2 due to scheduling difficulties with the tenants.
- When they were informed on December 19, 2008 of the problem with the new dishwasher they attempted to deal with the problem as quickly as possible.
- The tenants were informed that the repair would be approximately 5 to 6 days barring unforeseen problems.
- Work to do the repairs began on January 19, 2009 and the tenants had a working kitchen by January the 23rd 2009, a total of only five days.
- No cutting was done in the rental unit while the repair was being done and no work related dust created, and therefore the tenants claim of having to clean up dust from the repair is not valid.
- They never give a discount in the rent when a piece of the rental equipment is not working; it's just not something they do.
- The tenants chose to stay with family and therefore the cost was not covered by insurance, had they stayed in a hotel their insurance will cover the cost.

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- There were ongoing scheduling problems with the tenants that resulted in delays in getting the dishwasher replaced and repairs done and therefore it's not reasonable for the tenants to claim a loss of use for the full time.

The respondent/landlords therefore believe that they have acted reasonably in this matter and that any compensation is not justified.

Analysis

It's my decision to the applicants have not met the burden of proving the majority of their claim. Although I agree that it's an inconvenience not to have a dishwasher it is my decision that the landlord acted with reasonable speed in their efforts to get the dishwasher up and running properly.

Further it's my finding that some of the delay was beyond the landlords control, as it's often difficult to schedule a time to do repairs that's convenient for all parties.

Also, the landlord had no way of knowing that the brand-new dishwasher that they purchased would be faulty and cause further loss of use to the tenants.

I therefore deny the claim of \$10.00 a day for loss of use of the dishwasher.

I do accept the tenant's claim that they were out of the unit for seven days and since this is a major loss of use I am willing to allow some compensation for that loss. I am not however willing to allow the \$35.00 per day for not being able to be at home, as well as the \$50.00 per day claim for use of a family member's home, as that would penalize the landlord twice for the same thing. I find the \$50 per day claim, for use of the family members home, to be reasonable and that is the amount that I will allow, $\$50.00 \times 7 = \350.00 .



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It will also allow a portion of the amount claimed by the tenants for cleaning as I accept that there was some cleaning needed throughout this process however the tenants have provided little evidence to prove their claim of nine hours of cleaning. I allow \$50.00 for cleaning.

I deny the full claim for pain and suffering. I don't doubt that it was an inconvenience having to do extra cleaning and hand dishwashing, and having to deal with contractors, and I accept that the tenants had some concerns about the possible effects of mould; however the tenants have not met the burden of proving that they suffered any pain and suffering or anything beyond inconvenience.

I will allow the claim for the \$50.00 filing fee that was paid for this hearing because I have allowed a portion of the tenants claim.

Conclusion

I have allowed \$450.00 of this claim. The applicant/tenants may therefore deduct \$450.00 from future rent payable to the landlord.

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: May 26, 2009.

Dispute Resolution Officer