

INTERIM DECISION

Dispute Codes:

ERP

MNDC

RP

Introduction

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This is the Tenant’s application for an Order that the Landlord make emergency repairs for health or safety reasons; a Monetary Order for damage or loss; and an Order that the Landlord make repairs to the unit, site or property.

I reviewed the evidence provided prior to the Hearing. The parties gave affirmed testimony and the Hearing proceeded on its merits.

Issues to be Decided

- Is the Tenant entitled to a monetary order, and if so in what amount?
- Should the Landlord be ordered to repair the roof and the Tenant’s suite due to on-going flooding problems?

Background and Evidence

The Tenant served the Landlord with the Notice of Hearing package and evidence, via registered mail and express post, on July 10, 2009 and July 12, 2009, respectively. The Tenant provided copies of the receipts and tracking information for the documents.

Tenant’s testimony and evidence

The Tenant has lived in the rental property for approximately 4 ½ years. The monthly rent is currently \$618.00 per month.

In January, 2009, he noticed leaking on his balcony and put buckets out to catch the water. He verbally advised the building manager about the leak, but no action was taken.

Other leaks, in the ceilings of the hallway and kitchen, occurred later in January, 2009. The Tenant verbally advised the building maintenance person about the new leaks, and showed him the damaged hallway ceilings. Nothing was done to remedy the situation.

In February, 2009, the Tenant called the building manager to advise that the master bedroom ceiling was now also damaged due to water leaking from the roof. Part of the ceiling had deteriorated and fallen away, exposing water-logged wood and mould. The building manager came to see the damage and concluded that the mould was actually tar seepage from the roof. The building manager told the Tenant that he would not be repairing the ceiling until the roof was fixed, which would not be until the spring, when it was dry. To date, the roof has still not been repaired.

On May 13, 2009, the Tenant wrote to the building manager, a copy of which letter was provided into evidence. The Tenant reiterated his concerns about the major leaking in the master bedroom; hall ceiling above the kitchen; hall ceiling above the second bedroom; through a light fixture in the hallway; and the balcony.

The Tenant has to empty six containers on a regular basis, because the roof is sloped and rain water collects in a pool above the Tenant's apartment. The Tenant's ceiling continues to leak long after it has stopped raining.

Landlord's agent's testimony

The Landlord's agent RE testified that the Landlord is not denying the leaks. The Landlord has arranged for a professional contractor to repair the roof above the Tenant's suite in mid-September, which was the earliest date the Landlord could procure the contractor's services.

The Landlord's agent RE further testified that on August 26, 2009, a professional contractor will be viewing the Tenant's suite to do an assessment of the damage and arrange for repairs. An electrical engineer may also be present to assess the damage, as there is water dripping from an electrical outlet in the ceiling (through the light fixture).

Analysis

In evidence, the Tenant provided photographs of the rental unit. These photographs indicate water damage to the ceilings in the hallway; hallway closet; second bedroom; master bedroom; balcony and a lighting fixture. The Tenant has removed the glass globe from the lighting fixture and does not use the light.

Most importantly, and of greatest concern, is the condition of the ceiling in the master bedroom where the Tenant's daughter sleeps.

Under section 32 of the Act a landlord is required to provide a rental unit which complies with health, safety and housing standards required by law.

Based on the uncontradicted evidence of the Tenant, I find that the Landlord is in breach of section 32 of the Act. I find the Landlord has failed to provide a rental unit which complies with the Act.

Therefore, I make the following Interim Orders upon the Landlord. The Landlord must:

- Have a licensed independent contractor repair the roof; interior ceiling and walls (including the light fixture) in the unit and before the next Hearing in this matter provide a letter to the Tenant and this Dispute Resolution Officer certifying that the roof, interior walls and ceilings, and electrical system meet the required electrical standards and codes; and
- Comply with section 32 of the Act.

The Landlord has until October 15, 2009, to complete all of the above repairs. This Hearing is adjourned to a later date, and the Notice of Adjourned Hearing is enclosed with this Interim Decision and Orders. When the Hearing resumes, the Tenant and Landlord must report on the work conducted in the interim.

If the Landlord does not comply with these Orders, I shall make an order at the next hearing for rent reduction from September 1, 2009, until the Landlord complies.

Based on the evidence and testimony of the Tenant and the Landlord's agents, I find that the Tenant is entitled to compensation in the form of rent abatement in the amount of 30%, being \$185.40, for the months of January to August, 2009, inclusive. Pursuant to Section 72(2)(a) of the Act, the Tenant may deduct the rent abatement, in the total amount of \$1,483.20, from future rent due to the Landlord.

Conclusion

I hereby order that the Tenant is entitled to deduct the amount of \$1,483.20 from future rent due to the Landlord.

This Hearing is adjourned to the date specified in the enclosed Notice of Adjourned Hearing.

Dated: August 24, 2009.
