



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, RP, FF

Introduction

This matter dealt with an application by the tenants for a Monetary Order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, For an Order for the landlord to make repairs to the unit and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with section 89 of the *Act*. They were sent to the landlord by registered mail on June 05, 2009. The landlord confirmed he had received them. As the tenants have moved from the rental suite they wish to withdraw their application for a repair Order.

Both parties appeared, gave their testimony, were provided the opportunity to present evidence and make submissions. On the basis of the solemnly affirmed evidence heard today and the submission made prior to the hearing, a decision has been reached

Issues(s) to be Decided

Are the tenants entitled to compensation for damage or loss and if so, how much?

Background and Evidence

This tenancy started on July 28, 2008 and ended on May 31, 2009. Rent for this basement suite was \$1,200.00. The tenants paid a security deposit of \$625 On July 23, 2008. This has been returned to the tenants

The tenants testify that they have had continuing problems with the suite. The tenancy agreement stated that the rent included cable services however they did not receive this until

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August 26, 2008. From the day they moved in until August 26 the tenant did not have the facilities to take a shower and had to find alternative accommodation for two weeks. They discovered in the winter months that there was no weather stripping around the windows and doors which caused a loss of heat and ice forming on the inside of the windows. When the move in inspection was carried out the tenants informed the landlord that the smoke detectors did not have batteries in and this was never remedied. The tenants complained to the landlord about the fridge and freezer not working correctly and freezing the tenant's food. There were on-going issues with noise from the landlord's home upstairs.

In January 09, the tenants informed the landlord about a flood in the basement. This subsequently created a mould issue. The landlord did take steps to rectify this problem. On May 26 the tenants came home and found the septic tank was backing up leaving foul water in the bathtub and toilet. The landlord also took steps to remedy this problem but the tenants had to make alternative living arrangements for four days.

The tenants agree that the landlord did take steps to make repairs in a timely fashion once notified of the problems. The tenants are seeking compensation for the loss of internet service for one month and compensation for the periods of time they could not live at the suite.

The landlords agree that the tenants did not have internet service for the month due to the time it took the cable company to set this up. They also agree that the tenants did not have shower facilities. However, they dispute the tenant's testimony that they had to move out for two weeks and the tenants did not inform them of the problem until August 05, 2009. The landlords also testify and have produced receipts for the repairs carried out and state that the repairs to the septic tank only took 18 hours.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. With respect to the first grounds for compensation for loss of a service or facility that was included on the tenancy agreement pursuant to s. 27(1)(b). The landlords and tenants

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agree that the tenants were without the internet services for one month and have agreed that the tenant's share of this service would be \$19.13.

With respect to the second grounds for compensation; I acknowledge that the landlords were unaware of the problems with the shower prior to the tenants moving into the suite. However, pursuant to s. 32 of the Act;

32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

However, the tenants did not notify the landlords of the lack of shower facilities until August 05, 2008. The tenants must take some responsibility for not informing the landlords immediately when they discovered the issues with the shower. Therefore, the compensation they are entitled to is reduced. I find the tenants are entitled to recover rent for seven days in compensation from the time they notified the landlords to the time they moved back into the suite of \$270.96.

With respect to the third grounds for compensation I find that the landlords acted expediently in making repairs to the septic tank and other issues with flooding, mould and the hot water tank. The tenants testify that they informed the landlord on May 26, 2009 of the septic tank problem and it was resolved on May 28, 2009 as confirmed on the repair receipt. As this was a problem that forced the tenants to vacate their home I find that they are entitled to compensation for the two days it took to repair the septic tank and therefore they are entitled to recover two days rent of \$80.00.



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As the tenants have been partial successful in their application they are entitled to recover \$50.00 for the cost of filing this application. A Monetary Order has been issued for the following amount:

Compensation for loss of internet service	\$19.13
Compensation for moving out for loss of shower	\$270.96
Compensation for moving out for septic tank issues	\$80.00
Filing fee	<u>\$50.00</u>
Total amount due to the tenants	\$420.09

Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$420.09**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: August 04, 2009.

Dispute Resolution Officer