



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, OLC, 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 \$3150.00 and a request that the respondents bear the \$50.00 cost of the filing fee paid for this hearing.

Background and Evidence

Applicants claim

Loss of enjoyment & inconveniences

The applicant testified that:

- The landlords have failed to make repairs in a timely manner during the tenancy and as a result the tenant has suffered the following loss of enjoyment and inconveniences:
 1. No dishwasher for 3 years and 3 months.

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2. Dust and paint falling from a mouldy ceiling for 6 months.
3. Malfunctioning toilet for 1 month and 27 days.
4. Malfunctioning washbasin stopcock for 30 days.

The applicant is therefore requesting the equivalent of one months rent (\$1575.00) as compensation for the above.

Water flow accident

The applicant testified that:

- The hot water tank in the rental unit failed on March 12, 2009 causing a large leak.
- The landlords replace the hot water tank and got in a restoration company, however the applicant had loss of use of the rental unit for approximately 17 to 18 days.
- She has also have extra Hydro costs due to the numerous fans used in the rental unit to dry out the leak, and some of her personal items were damaged at the time of the leak.

The applicant is therefore requesting the equivalent of one month rent (\$1575.00) as compensation for the above.

Landlord's response

Loss of enjoyment & inconveniences

The respondent testified that:

- The applicant had requested a repair to the dishwasher early on in the tenancy a repair man had been sent; however they were not aware that the problem had not been resolved and were not contacted again by the tenant about the problem until March 17, 2009 and they replaced the dishwasher on March 18, 2009.

- The tenant reported, what she is calling, a mouldy ceiling and since this is a Strata building it was reported to the Strata management. It turned out to be staining on the ceiling and it took the Strata Company a while to trace the problem however it was fixed as soon as the problem was found. At no time were they told by the tenant that there was dust and paint falling down.
- The problem with the toilet was very minor, simply an adjustment to the chain in the tank of the toilet.
- The washbasin stopcock was a gold coloured item and they had a hard time finding a replacement for it. It was replaced as soon as possible.
- There are two full bathrooms in this rental unit and therefore the tenant always had the use of a functioning bathroom toilet and sink during the full tenancy.

The landlord therefore believes that they have acted reasonably and made repairs in timely manner when they became aware of the need for those repairs and therefore they do not believe any compensation is justified.

Water flow accident

The respondent testified that:

- Just prior to the hot water tank failing the tenant had reported a problem with the hot water.
- The landlord had contacted the plumber and the plumber had been attempting to contact the tenant but had been unable to do so.
- When the hot water tank did fail it was replaced promptly and a restoration company was dispatched to clean up the water.
- The landlord does not believe that they were negligent in any way with regards to the water flow accident and that the tenant should have claimed her losses on her own tenants insurance.

The respondent's therefore do not believe that the tenants claim for one full month's (\$1575.00) is justified; however they have offered and are still offering to compensate the tenant \$432.00.

Analysis

Loss of enjoyment & inconveniences

It is my decision that the tenant has not shown that the landlords have acted negligently with regards to repairs to the rental unit.

I find that the landlords have made the needed repairs within a reasonable time after being made aware of the need for those repairs.

I'm not convinced that the landlords were aware that the dishwasher had not been repaired when the original repairman was sent out, and in her own testimony the tenant stated that she had been unable to contact the landlords to advise them that the repair had not been done.

I therefore deny the claim for loss of enjoyment and inconveniences.

Water flow accident

It is also my finding that the applicant has not shown that there was any negligence on the part of the landlords with regards to the water flow accident.

I find that the landlords acted reasonably and promptly to replace the hot water tank, and repair and cleanup the damage caused by the leaking hot water tank.

In the absence of any negligence on the part of the landlords, the tenant does not have a monetary claim against the landlords for the losses that resulted from this water flow accident and should look to any tenants insurance she may have for possible compensation.

The restoration company did use the tenant's electricity to run fans to dry out the rental unit however the landlord did state at the hearing that they offered compensation of \$432.00 to the tenant and that she could deduct this amount from her rent and that this offer still stands.

I find the above amount to be very reasonable and will more than compensate the tenant for any extra electricity costs.

Therefore although I will not issue any order against the landlords, the tenant is still able to deduct \$432.00 from future rent.

Conclusion

This application is dismissed in full without leave to reapply.

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: September 25, 2009.

Dispute Resolution Officer