



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes FF, MNDC, OLC, RP

Introduction

Some documentary evidence and written arguments have 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 \$1547.50. The applicant is also requesting an order that the respondent bear the \$50.00 cost of the filing fee that was paid for this hearing.

Background and Evidence

The applicant testified that:

- There was a sewer line blockage caused by roots from a willow tree which resulted in a sewage backup into the rental unit.
- Due to the time needed to repair the blockage and clean up the sewage in the house they had to vacate and live in a hotel for five nights.
- They were also unable to do laundry at the rental unit and had to go to friends to do the laundry.

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- The cleanup crew also ran four large industrial fans in the rental unit to dry out the water and the fans were hooked up to the tenant's electricity.
- they also had loss of use of a portion of the rental unit for three months due to the ongoing repairs.
- There had been five sewer backups in the past three years.

The applicants are therefore requesting an order as follows:

Hotel cost for five nights	\$547.50
Power usage	\$50.00
Not having full use of the House- \$300 per month for three months	\$900.00
Filing fee	\$50.00
Total	\$1597.50

The respondent's testified that:

- There had been some previous sewer line blockages however each time it occurred they were informed it was the result of sanitary napkins blocking the sewer line.
- They had never been informed of any sewage backup into the house on any of the previous blockages.
- The tenants had been informed not to flush sanitary napkins down the toilet, however continued to do so.
- When the sewage backup occurred that resulted in this claim, it was found that there were roots blocking the line, however there were also sanitary napkins again in the sewage line which exacerbated the problem.

- When the sewage flood occurred the landlords acted quickly to cleanup the sewage and to repair the damage caused. The damage was professionally repaired under the landlords insurance.

The respondents therefore believe that since the tenant's actions exacerbated the problem, they should bear some of the responsibility for any loss that resulted.

Analysis

I am not convinced of the landlords could have foreseen that this sewage backup would occur, nor am I convinced that there was any negligence on the part of the landlords. Therefore it is my decision that the landlords cannot be held liable for any loss that resulted from the initial sewage backup. I therefore will not allow the claim for hotel costs. I don't know if the tenants have Occupants Insurance however if they do they may wish to see if their coverage would reimburse these costs.

I also will not allow the claim for laundry, as the applicants have provided no evidence of having had to pay any laundry costs or gas costs.

I will also not allow the claim for extra electricity, as again the applicants have provided no evidence in support of this claim other than to state that four fans were used. There is nothing to show how they arrived at \$50.00 or any evidence to show that there was any significant increase to their Hydro bill.

I will allow the tenants claim for loss of use of part of the house while repairs were being done. The tenants were paying to rent the whole house and if a portion of the house is not available for use then it is not reasonable that they should have to continue paying the full amount of rent and I'm not convinced that sanitary napkins in the sewage line

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exacerbated the problem, as the landlords have provided no evidence in support of this claim. It is also my decision that the amount claimed of \$300.00 per month is a reasonable amount for the loss of use. In this case the landlords may wish to look to their insurance see if they have coverage for loss of income resulting from this sewage backup.

Conclusion

The applicant's claims for hotel costs, power usage, and laundry are dismissed. I have allowed the \$900.00 claim for loss of use. I further ordered that the respondents bear the \$50.00 cost of the filing fee paid for this hearing.

I have therefore issued an order for the respondents to pay \$950.00 to the applicants.

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: November 03, 2009.

Dispute Resolution Officer