



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes MNDC, RR, FF, O

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted 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 \$1300.00, a request for an order allowing the tenants to reduce the rent by \$650.00 per month for loss of use of the basement, and a request for an order for the landlord to change the locks in the rental unit.

Background and Evidence

The applicants testified that:

- The rental unit was found in need of substantial cleaning when they moved into the rental unit on September 1, 2009 and as a result they spent more than 20 hours with both of them cleaning.
- The carpets in the rental unit are badly stained and in need of cleaning.
- The balcony was in dangerous condition and unusable when they moved into the rental unit however it has recently been somewhat repaired by the owner.
- Two days after they moved in there was a major sewage backup in the lower portion of the rental unit which resulted in extensive damage. A restoration company was

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promptly called and they cleaned up the sewage and removed all the damaged flooring, wall boards, cabinets etc..

- As a result of the condition of the basement it is no longer usable, and no further repairs have been done to date. Therefore they have not had the use of the basement for the full term of the tenancy.
- When they were moving into the rental unit they were informed that there had been a marijuana grow op in the rental unit and therefore they do not feel safe living in the unit with the same locks on the doors. They've requested that the landlord changed the locks but to date the landlords have not done so.

The applicants are therefore requesting the return of the full September 2009 rent of \$1300.00 for loss of use for the month of September 2009 and for all the cleaning that was required, and to cover the cost of carpet cleaning.

The applicants are also requesting an order that the rent be reduced by \$650.00 per month until they have the use of the basement again.

The applicants are also requesting an order that the landlords changed the locks on the rental unit.

The respondent testified that:

- Although she did not see the rental unit when the tenants moved in she had seen in a couple of weeks before and did not find it to be in a very dirty condition.
- One of her property managers who is no longer with the company was the person dealing with the tenants when they moved in.
- There was a sewage backup into the rental unit on the second day of a tenancy that was not the result of anything done by the tenants. The sewage was cleaned up and the damaged flooring and portions of walls etc. were removed.



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- She had been told by the owner that the repairs are ongoing and was unaware that they had not yet been done.
- The tenant had requested to have the locks changed however she did not have the authority to do so and therefore is waiting for the results of this dispute resolution process.

Analysis

It is my decision that I'm going to allow the full amounts claimed by the tenants.

The tenants have shown this rental unit was not in a reasonably clean condition when they took possession at the beginning of September 2009 and as a result they had to do substantial cleaning themselves.

Both sides agree that there was a major sewage backup into the rental unit and that the tenants have suffered a loss of use of the basement portion of the rental unit. It is my decision that if the tenants are unable to use the basement portion of the rental unit is not reasonable that they continue to pay the full rent.

As far as the locks are concerned, Section 25 of the Residential Tenancy Act states:

25 (1) At the request of a tenant at the start of a new tenancy, the landlord must

(a) rekey or otherwise alter the locks so that keys or other means of access given to the previous tenant do not give access to the rental unit, and

(b) pay all costs associated with the changes under paragraph (a).



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Conclusion

I find in favour of the tenants for the full amount claimed and have issued an order for the landlord to pay the following:

Return of full September 2009 rent	\$1300.00
Return of 1/2 of November 2009 rent	\$650.00
Filing fee	\$50.00
Total	\$2650.00

I further order that the rent continue to be reduced by \$650.00 per month until the tenants have the full use of the basement portion of the rental unit.

I further ordered that the landlord rekey or change the locks on the rental unit.

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