Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes CNC, MNR, MNDC, OLC, ERP, RP, PSF, RR, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution to cancel a notice to end tenancy, for a monetary order and for an order to have the landlord comply with the *Residential Tenancy Act (Act)*.

The hearing was conducted via teleconference and was attended by the tenant and the landlord. Both parties had a witness attend and provide testimony.

During the hearing the tenant acknowledged that she had moved out of the rental unit on February 11, 2010. As a result, the tenant agreed there was no longer a need to include in her application the following issues: cancellation of the notice to end tenancy; to have the landlord comply with the *Act*; to make emergency repairs; make repairs to the unit; provide services or facilities; and allow the tenant to reduce the rent for repairs. The tenant's application was amended to exclude these issues.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for the cost of emergency repairs and for money owed or compensation for damage or loss and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 32, 33, 67, and 72 of the *Act.*

Background and Evidence

The tenancy began in the fall of 2009 as a month to month tenancy for a monthly rent of $800.00 due on the 1st of the month. No written tenancy agreement was signed by the parties, no security deposit was paid and no move in Condition Inspection Report was completed.

Both parties provided substantial documentary evidence, primarily consisting of their own statements and statements from various witnesses. The tenant did submit receipts

and a breakdown of her financial claim, a copy of the 1st page of the Notice to End Tenancy for Cause and several pictures of the condition of the rental unit.

The landlord testified that the tenant had accepted the tenancy knowing that the property was for sale and the state of the rental unit. He testified that he had agreed to provide November 2009 rent free after being advised by his agent about what a great job the tenant had been doing on fixing up the rental unit. He further stated that he did not and would not have agreed to reimburse the tenant for repairs that she made. The landlord's agent testified that the tenant viewed the rental unit in the last few days of October 2009.

The tenant testified that she had accepted the tenancy without viewing the rental unit and only saw the condition of the rental unit the day she moved in. She testified that she moved in on December 16, 2009. She further testified that she had discussed her financial claim with the landlord's agent in December 2009. The landlord states he first heard about the financial claim when he received the notice and evidence from the tenant for this hearing.

Analysis

Both parties disputed every detail of the tenancy and events during the tenancy, including when the tenant first viewed the rental unit; when she moved in; and the relationships of all the parties.

In the case of verbal agreements, I find that where verbal terms are clear and both the landlord and tenant agree on the interpretation, there is no reason why such terms cannot be enforced. However when the parties disagree with what was agreed-upon, the verbal terms, by their nature, are virtually impossible for a third party to interpret when trying to resolve disputes.

As both parties knew that the property was for sale and that this had the potential to be a short term tenancy, I find, on the balance of probabilities the landlord was unlikely to enter into any agreement to repair the rental unit to any great extent. At the very least it was incumbent upon the tenant to discuss specifically what repairs and what costs she was planning to make prior to spending any money on repairs.

Section 33 of the *Act* specifically outlines what types of repairs are considered emergency repairs and how a tenant may be authorized to make emergency repairs. Even in the case of urgent repairs, such as broken or damaged water lines, the tenant

must make two attempts to contact the landlord and then provide the landlord reasonable time to make the repairs.

The section goes on to say that a tenant must claim a reimbursement from the landlord and give the landlord a written account of the emergency repairs and the landlord must then reimburse the tenant. While these requirements are not stated in relation to non emergency repairs, I find them to be a guide that is pertinent to this situation.

The tenant provided no evidence to support she had discussed the specific repairs or costs with the landlord or his agent prior to making the repairs or spending money on supplies.

Conclusion

Based on my findings above, I dismiss the tenant's application, in its entirety 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: March 04, 2010.

Dispute Resolution Officer