

DECISION

Dispute Codes MT, CNR, MNR

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution for more time to apply to cancel a notice to end tenancy; to cancel a notice to end tenancy; and for a monetary order.

The hearing was conducted via teleconference and was attended by the two tenants and the landlord and her agent and witness.

At the outset of the hearing the tenants indicated they had moved to a new address. As such the tenant agreed there was no need to pursue more time to apply to cancel a notice to end tenancy or to cancel the notice to end tenancy. The tenants' application was amended to exclude those matters.

The landlord indicated that until the tenants provided their new address at this hearing they did not have a forwarding address to send the tenants their evidence so they had not submitted any evidence for this hearing.

I ordered the landlord to provide her evidence to both the tenants and to me by the end of business on Monday, March 8, 2010. In order to provide the tenants with an opportunity to respond to the landlord's evidence, I have ordered the tenants to provide a written submission responding only to the landlord's documentary evidence no later than the end of business on Thursday March 11, 2010.

No evidence was submitted by the landlord by the end of business on March 8, 2010. On March 9, 2010 I received a written request from the landlord requesting a week extension, as their evidence is not yet ready.

As I understood, in the hearing, the landlord had evidence available and only needed to serve it. As the landlord has not submitted any additional evidence there is no need for the tenants to submit any written response to that evidence. As such, I deny the landlord's request for an extension and will provide my decision in the absence of the landlord's written evidence or additional response from the tenants.

Issues(s) to be Decided

The issue to be decided is whether the tenants are entitled to a monetary order for compensation for emergency repairs, pursuant to Sections 33, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenancy began on September 1, 2009 as a month to month tenancy for a monthly rent in the amount of \$1,300.00 due on the 1st of the month. A security deposit of \$650.00 was paid.

The tenants testified that they had had plumbing problems from the start of the tenancy and on December 29, 2010 the basement was flooding. They testified that they contacted the landlord's agent (husband) who came to meet with the plumber.

After waiting for an hour and a half for the plumber, the landlord's agent left. The agent testified that he had told the tenant's that when the plumber arrived and provided an estimate for the work required the tenants should call the landlord to discuss options.

The tenants testified the landlord's agent told them to go ahead and get it repaired, pay for it and that they could reduce the rent in January 2010. The landlord's agent testified that he suggested that they may consider a rent reduction but did not commit to one at the time.

The landlord stated that the tenants never contacted the landlord again regarding the repairs, did not pay rent on January 1, 2010 and failed to respond to any phone messages or emails sent by the landlord.

Analysis

Section 32 of the *Act* defines emergency repairs as repairs that are urgent; necessary for the health or safety of anyone or for the preservation or use of the residential property, and are made for the purpose of repairing, among other things, damaged or blocked water or sewer pipes or plumbing fixtures.

Neither party disputed the need for repairs to be made to the plumbing. As such, I find that the conditions outlined by the parties constituted a need for emergency repairs as defined under the *Act*.

Section 32 (3) goes on to say a tenant may have emergency repairs made only when all of the following conditions are met:

1. Emergency repairs are needed;
2. The tenant has made at least 2 attempts to telephone the person identified by the landlord as the person to contact for emergency repairs; and
3. Following those attempts, the tenant has given the landlord reasonable time to make the repairs.

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 they arise.

As the parties in this matter disagree as to what was agreed to, I must rely on the *Act* to guide my decision. It is clear to me that the first two requirements under Section 32(3) have been met. However, by approving the plumber and paying for the repairs on their own the tenants did not provide the landlord with reasonable time to make or arrange to make the repairs.

Conclusion

For the reasons noted above, I dismiss the tenant's application, 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 9, 2010.

Dispute Resolution Officer