

DECISION

Dispute Codes:

RP; MNDC; FF; O

Introduction

This is the Tenants' application for a monetary order for compensation for damage or loss; for an order that the Landlord make regular repairs to the rental unit; and to recover the cost of the filing fee from the Landlord.

The Tenants gave affirmed testimony at the Hearing.

The Tenants testified that they mailed the Landlord the Notice of Hearing documents by registered mail, on July 7, 2010. The Tenants provided the registered mail receipt in evidence. The Canada Post tracking system indicates that the Landlord picked up the registered mail documents on July 13, 2010.

I am satisfied that the Landlord was duly served with the Notice of Hearing documents in accordance with the provisions of Section 89(c) of the Act. Despite being served with the Notice of Hearing documents, the Landlord did not sign into the teleconference and the Hearing continued in her absence.

Issues to be Decided

- Are the Tenants entitled to a monetary order in compensation for damage or loss, and if so, in what amount?
- Should the Landlord be ordered to make repairs to the Tenants' toilet?

Background and Evidence

The Tenants gave the following testimony:

Monthly rent is \$650.00 per month.

On June 20, 2010, the Tenants' toilet was malfunctioning. The Tenants advised the Landlord on June 25, 2010, who sent an agent to their home to attempt to fix the toilet on June 28, 2010. The Landlord did not give the Tenants the required 24 hours written notice to enter the rental unit. The Tenants were packing for a flight and the rental unit was in disarray. The Landlord's agent was rude about the untidiness of the rental unit. The toilet was not fixed properly.

The female Tenant phoned the Landlord at 6:00 p.m. on June 28, 2010, to advise that the toilet was still not working properly. The Landlord's response was that their home would be inspected in 5 days, but not in order to fix the toilet.

On July 2, 2010, the Tenants got a note slipped under their door from the Landlord's agent asking the Tenants to call the Landlord. A copy of the note was entered in evidence. When the Tenants called the Landlord, the Landlord alleged that the female tenant was observed on video tape wiping human feces in the hallway and that the Landlord would be calling the RCMP and the male Tenant's employer. The male Tenant is a teacher in a small community. The Landlord also said that the Tenants were being evicted, although no Notice to End Tenancy has been served on the Tenants.

The Tenants deny the Landlord's allegation in its entirety and stated that the Landlord's threat to call the RCMP and the male Tenant's employer caused them much concern because of the nature of the allegation and the harm to the male Tenant's reputation should his employer be called about the false allegation. The Tenants have never been shown any video and the RCMP have not been called. The Tenants do not know if the Landlord called the male Tenant's employer and are embarrassed to ask the employer.

The toilet is still not working properly. In order to flush the toilet, the tank cover has to be removed and the flushing mechanism operated manually. The toilet keeps running and continually draining which makes an annoying noise that can be heard throughout the rental unit, particularly at night when the Tenants are trying to sleep. The Tenants provided a letter from a witness dated August 18, 2010, confirming that she has been at the Tenants home in the months of July and August and that the toilet is flushing, but making a loud noise every one or two minutes.

The Tenants seek an order that the Landlord repair the toilet. The Tenants also seek monetary compensation in the amount of \$650.00 for loss of peaceful enjoyment and for the stress caused by the Landlord surrounding the false accusations.

Analysis

Based on the undisputed testimony of the Tenants and the documentary evidence provided by the Tenants, I am satisfied that the Landlord was provided with notice on June 25, 2010, that the toilet was not functioning properly. I am also satisfied that the toilet is still not working properly and that the tank continues to empty and refill and that this disturbs the Tenants' peaceful enjoyment of the rental unit.

I am satisfied that the Landlord's agent made unsubstantiated allegations about the female Tenant and that the Landlord's agent threatened to call the RCMP and the male Tenant's employer about these allegations.

The Landlord is hereby ordered to repair the Tenants' toilet within 7 days of receipt of this Decision. The Landlord is further ordered to provide the Tenants with written notice of entering the Tenants' home to affect the repairs. This written notice must comply with the provisions of Section 29 of the Act. If the Landlord does not comply with this order to fix the toilet within 7 days of receipt of this Decision, the Tenants are at liberty to apply for further monetary compensation.

I award the Tenants the amount of \$100.00 per month for the months of July and August, for their loss of peaceful enjoyment, together with a monetary award of \$150.00 in compensation for the Landlords' unsubstantiated claim that the female Tenant spread human feces in the common areas, and the threats to call the RCMP and the male Tenant's employer.

The Tenants have been successful in their claim and are entitled to recover the cost of the filing fee from the Landlord.

Further to the provisions of Section 72(2)(b) of the Act, the Tenants may deduct their monetary award in the total amount of \$400.00 from future rent due to the Landlord.

Conclusion

I hereby order the Landlord to repair the Tenants' toilet within 7 days of receipt of this Decision.

The Tenants may deduct the amount of \$400.00 from future rent due to the Landlord.

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: August 30, 2010.

Dispute Resolution Officer