

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and to recover the cost of the filing fee from the Landlord for this application.

Service of the hearing documents, by the Tenant to the Landlord, was done in accordance with section 89 of the Act, sent via registered mail on April 28, 2010. Mail receipt numbers were provided in the Tenant's verbal testimony. The Landlord is deemed to be served the hearing documents on May 3, 2010, the fifth day after they were mailed as per section 90(a) of the Act.

The Tenant appeared, gave affirmed testimony, was provided the opportunity to present his evidence orally, in writing, and in documentary form.

Issues(s) to be Decided

Is the Tenant entitled to a Monetary Order pursuant to sections 67 and 72 of the *Residential Tenancy Act*?

Background and Evidence

In support of his testimony, the Tenant referred to his documentary evidence which included among other things a copy of the 2 Month Notice to End Tenancy issued by the Landlord August 17, 2009, photos taken of the rental unit in April 2010 which were taken by looking through a window from the yard, a copy of the letter issued by the mechanical company on August 14, 2009, listing the proposed repairs to be completed

on the rental unit, a copy of the tenancy agreement, and a copy of the cheque stub from the one month compensation issued to the Tenant for moving out of the rental unit.

The one year fixed term tenancy began July 1, 2005, and switched to a month to month tenancy after June 30, 2006. The Tenant vacated the rental unit based on the 2 Month Notice to End Tenancy on September 10, 2009, after providing the Landlord with ten days notice to vacate before the effective date of the notice.

The Tenant testified that he was issued a 24 hour notice of entry on August 11, 2009 which indicated the mechanical repair company would be entering his unit the next day and proceeding with extensive renovations between the hours of 8:00 a.m. and 4:00 p.m. for up to three weeks. He contacted the Landlord immediately and informed them that this project could not commence with only one day notice as the Tenant was expecting company for the month of August in addition to him operating his home based business out of the rental unit. He informed the site foremen directly that access would not be granted for the next day.

On August 12, 2009 the property manager gave the Tenant a letter from the mechanical company which stated they would be accessing the rental unit on August 14, 2009. The Tenant asked the property manager about his concerns at which time the property manager did not reply and simply walked away. The Tenant sought out the site foremen immediately following his conversation with the property manager and told the site foremen that his concerns were not worked out and access would not be granted on August 14, 2009.

On August 17, 2009 the Tenant found the 2 Month Notice to End Tenancy in his mailbox. He complied with the notice without disputing it and the Landlord provided him payment equal to one month's rent (\$1750.00) less \$583.33 for ten days rent for September 2009.

The Tenant is now seeking compensation equal to two month's rent because the repairs for which his was evicted have not been initiated. The Tenant referred to his photos and testified the black plastic and green tape is exactly how it was when he occupied the rental unit. He also stated that he spoke to neighbours at the rental unit who have confirmed that no repairs have been initiated on the unit.

Analysis

All of the testimony and documentary evidence was carefully considered.

Section 51(2) of the Act provides that in addition to the compensation equal to one month's rent required under section 51(1) of the Act, if steps have not been taken to accomplish the stated purpose for ending the tenancy within a reasonable period after the effective date of the notice, the landlord must pay the tenant an amount that is the equivalent of double the monthly rent payable under the tenancy agreement.

Given the evidence before me, in the absence of any evidence from the Landlord who did not appear despite being properly served with notice of this proceeding, I accept the version of events as discussed by the Tenant and corroborated by his evidence.

Therefore I find the Tenant has provided sufficient evidence to prove his entitlement to the additional compensation under section 51(2) of the Act.

As the Tenant has been successful with his application, I award recovery of the filing fee.

Monetary Order – I find that the Tenant is entitled to a monetary order as follows:

Compensation = 2 X monthly rent (2 x \$1750)	\$3,500.00
Filing fee	50.00
TOTAL AMOUNT DUE TO THE TENANT	\$3,550.00

Conclusion

I HEREBY FIND in favor of the Tenant's monetary claim. A copy of the Tenant's decision will be accompanied by a Monetary Order for **\$3,550.00**. The order must be served on the respondent Landlord and is enforceable through the Provincial Court as an order of that Court.

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: September 08, 2010.

Dispute Resolution Officer