



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC FF

Introduction

This hearing dealt with an application by the tenants for monetary compensation. Both tenants and one landlord participated in the teleconference hearing.

Issue(s) to be Decided

Are the tenants entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on July 25, 2009 and ended on January 15, 2010 as per a mutual agreement to end tenancy. The rental unit in question was a single-family dwelling in a rural setting. The monthly rent was \$950.

The tenants have applied for monetary compensation on two grounds: first, the tenants seek a reduction in rent from \$950 to \$600 per month for the duration of the tenancy, on the basis that the landlord did not carry out requested repairs; and second, the tenants seek \$10,241.07 to recoup their losses due to a robbery that occurred during the tenancy, where the tenants were unable to obtain tenant insurance because of the conditions of the rental unit.

The evidence of the tenants on their application was as follows. On July 25, 2009, the date that the tenants moved in, the landlord told the tenants he could only give them one key, his own, because the last renter had failed to return the keys when he left. The tenants attempted to obtain tenant insurance, but were told they could not because the rental unit had no smoke detector and the windows did not have locks. The rental unit also had other serious issues including a rotten bathroom floor and major electrical issues.

The tenants verbally discussed these concerns with the landlord within a few days of the outset of the tenancy. The landlord told the tenants they could re-key the locks if they liked, but the tenants felt that was the landlord's responsibility, so they did not do it themselves. The landlord also told the tenants that he would install a smoke detector and find window locks as soon as he could, but nothing happened. On October 14, 2009, the tenants wrote a letter to the landlord, in which they detailed the numerous

items requiring repairs. The tenants asked that the bathroom repairs be carried out before October 31, 2009 and all other repairs be completed by November 30, 2009. The list included reference to the lack of smoke detectors and window locks, which prevented the tenants from insuring their possessions.

The landlord carried out some repairs on the bathroom by November 2, 2009, but he did not complete the work. On December 3, 2009 the tenants wrote another letter to the landlord and asked for a reduction in rent because the landlord did not complete the bathroom repairs or carry out any of the other requested repairs. The landlord came by to carry out some repairs on December 6, 2009, and at that time the landlord and tenants entered into a mutual agreement to end the tenancy on January 15, 2010. The landlord also left a smoke detector, which the landlord did not install but the tenants did later that day.

The tenants were away on holidays from December 13 to December 20, 2009. Upon their return, they discovered that they had been robbed. There was no sign of forced entry at all. Most of the tenants' electronics had been stolen, as well as jewellery and other items. The tenants have provided a list of all of the stolen items that they could recall, as well as their replacement costs, which total \$10, 241.07. The position of the tenants was that the landlord should compensate them for the loss as he was fully aware of the condition of the rental unit and that the tenants could not get insurance because of the unit's condition.

The response of the landlord was as follows. The landlord did not see that the rental unit would have been uninsurable, and the previous tenants had insurance. The landlord told the tenants on move-in that they could re-key the locks, but they did not do so and the landlord felt he was not responsible for that.

In regard to repairs, the landlord stated that he had already spent over \$2000 in repairs on the unit before the tenants moved in, and they wanted to move in early, so he did not have time to complete all the cleaning. The landlord stated that he tried to accommodate the tenants by carrying out the bathroom repairs within the short time frame they provided, but he was unable to do so. The landlord's position was that the tenants were not entitled to any compensation for the robbery or for the condition of the rental unit during the tenancy.

Analysis

In considering all of the testimonial, documentary and photographic evidence, I find as follows.

In regard to compensation for the robbery, I find that the landlord cannot be held liable for the tenants' losses. The tenants did not provide sufficient evidence to support their claim that they were unable to obtain tenant insurance due to the condition of the rental unit. It is not a landlord's responsibility to ensure that the tenants obtain tenant insurance. The tenants ought to have been more diligent, from the outset of the

tenancy, in ensuring that the landlord brought the rental unit up to the condition required for them to obtain tenant insurance. The tenants did not take any steps to ensure, for example, that the landlord re-keyed the locks – they merely left it for the landlord to do and did not pursue the issue. I therefore dismiss the portion of the tenants' application regarding their claim to recoup losses for the robbery.

In regard to the application for an abatement of rent, I find that the tenants are entitled to compensation for the condition of the rental unit and the landlord's failure to carry out necessary repairs. However, the tenants are not entitled to compensation for the duration of the tenancy because they did not take adequate steps to ensure that repairs were carried out until they gave the landlord a written request for repairs on October 14, 2009. The tenants gave the landlord deadlines of October 31, 2009 for bathroom repairs and November 30, 2009 for the remainder of the repairs. I accept the evidence of the parties that the landlord failed to complete the bathroom repairs, and I therefore find that the tenants are entitled to compensation for the time period of November 2009 through to January 15, 2010. I find that a reduction of \$350 per month is reasonable. The tenants are therefore entitled to total compensation of \$875.

As the tenants were partially successful in their application, I find that they are entitled to partial recovery of their filing fee, in the amount of \$50.

Conclusion

I grant the tenants a monetary order under section 67 for the balance due of \$925. This order may be filed in the Small Claims Court and enforced 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: March 1, 2011.

Residential Tenancy Branch