



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNSD, ERP, RP, RR, FF

Introduction

This hearing dealt with the Tenants' application for Orders for emergency repairs and repairs; monetary compensation for damage or loss under the Act, regulations or tenancy agreement; authorization to reduce rent, and recovery of the filing fee paid for this application.

The Landlord did not appear at the hearing. The female Tenant testified that she served the Tenants' Amended Application for Dispute Resolution and evidence upon the Landlord via registered mail on March 11, 2011, to the address at which the person resides.

Having been satisfied the Tenants served the Landlord in a manner that complies with section 89 of the Residential Tenancy Act (the "Act"), I proceeded to hear from the Tenant without the Landlord present.

Issue(s) to be Decided

1. Have the Tenants established that Orders to the Landlord are required for repairs and emergency repairs?
2. Have the Tenants established an entitlement to compensation for damage or loss under the Act, regulations or tenancy agreement?
3. Are the Tenants entitled to a rent reduction until such time repairs are completed?

Background and Evidence

The Tenant testified that there is no written tenancy agreement, but that the month to month tenancy started on July 15, 2010, monthly rent is \$1,300.00 and that the Tenants paid a security and pet damage deposit in the amount of \$400.00 each, prior to moving in.

The Tenant submitted that she and the male Tenant initially moved into the basement suite and moved to the upstairs suite at the end of December 2010.

I heard testimony from the Tenant that while they were still living in the basement suite, a pipe in the upper unit burst, causing the Tenants to lose water for at least a 24 hour period. The Tenant submitted that they could not reach the Landlord despite numerous attempts, and that the male Tenant had to repair the burst pipe. The Tenant further submitted that water seeped into the carpet, causing water damage to their possessions.

The Tenant stated that after moving upstairs, on or about January 20, 2011, the Landlord knocked on their door, unannounced, and told them there was a water leak in the lower unit. The Landlord proceeded to the bathroom, confirmed the water leak and instructed the Tenants to keep the water running. The Tenant testified that after about 15 minutes of this, she noticed the Landlord leaving, not to return.

The Tenant testified that the male Tenant again had to repair the burst pipe as the Landlord would not return their phone calls. The Tenant submitted that on March 3, they received a phone call from the lower unit's tenants, stating that there was black mould and sewage seeping into the walls from the upper unit, which the Tenant confirmed. The Tenant stated after a tile became dislodged in her shower unit, she noticed the black mould enveloping the walls behind the shower unit.

The Tenant testified that she has suffered respiratory problems and has a weakened immune system since moving upstairs and has attributed this to the presence of mould.

The Tenant submitted that the Landlord will not return their phone calls and will not make the repairs.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Only the evidence and testimony relevant to the issues and findings in this matter are described in this Decision.

Having heard from the Tenant I found her testimony to be very credible and I accept that the Tenants have been requesting the Landlord deal with the leaking pipes and

presence of mould since January 2011. Where a Tenant requests repairs, the Landlord must be afforded a reasonable amount of time to take sufficient action.

The Landlord is required under section 32 of the Act to provide and maintain the residential property in a state of decoration and repair which complies with health, safety and housing standards required by law. Under section 33 of the Act, the Landlord is required to post and maintain in a conspicuous place on residential property, or give to a Tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs. Under this section, major leaks in pipes and damaged sewer pipes or plumbing fixtures constitute emergency repairs.

I find the Landlord has breached section 32 and 33 of the Act and **I ORDER the Landlord to:**

- 1. Immediately repair or replace the leaking pipes and sewer line so as to ensure the plumbing in the Tenants' home meets health and safety standards by March 31, 2011, and**
- 2. Remediate the black mould throughout the rental unit and with proof that the remediation complies with health and safety standards by March 31, 2011.**
- 3. Immediately post and maintain in a conspicuous place on the residential property, or give to the Tenants in writing, the name and telephone number of the person the Tenants are to contact for emergency repairs.**

I find the Landlord has not taken sufficient action to repair the leaking pipes and flooring or remediate the presence of mould and I find this insufficient response has caused the Tenants to suffer a loss of use and enjoyment of their rental unit. I accept that the leaking pipes, soggy flooring and the mould have diminished the value of the tenancy by \$200.00 per month. I award the Tenants compensation of \$200.00 per month and therefore, I award the Tenants \$600.00 for loss of enjoyment of the rental unit for the months of January 2011 through March 2011.

I also award the filing fee paid for this application to the Tenants and I provide the Tenants with a **Monetary Order** for the total amount of **\$650.00** to serve upon the Landlord. The Tenants are authorized to satisfy this order by withholding this amount from a subsequent month's rent payment. In other words, the Tenants may pay the Landlord \$650.00 for the April 2011 rent in satisfaction of the monetary order.

I also order that the monthly rent be reduced beginning in May 2011, to **\$1,100.00** for continuing rent abatement of \$200.00 per month until such time as the Landlord completes the above ordered repairs, files and pays for an Application for Dispute Resolution, proves the above work has been completed in a good and workmanlike manner, and receives an order from a Dispute Resolution Officer that the rent may return to \$1,300.00 per month.

Conclusion

The Tenants were successful with this application. **The landlord has been ORDERED to repair or replace the leaking pipes and sewer line and remediate the black mould no later than March 31, 2011.** The Tenants have been provided a Monetary Order in the amount of \$650.00 for the loss of use and enjoyment of the rental unit for the months of January through March 2011. The Tenants are authorized to reduce future monthly rent by \$200.00 until such time the Landlord makes the repairs and remediates the black mould.

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 21, 2011.

Residential Tenancy Branch