



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 tenant for monetary compensation. Two tenants, a witness for the tenant and the landlord participated in the hearing.

Issue(s) to be Decided

Is the tenant entitled to the monetary compensation claimed?

Background and Evidence

The tenancy began on July 15, 2009 and ended on May 31, 2010, with monthly rent in the amount of \$1550. The tenant has claimed monetary compensation of \$3600 due to the unhealthy and unsafe condition of the rental unit during the tenancy.

The evidence of the tenant was as follows. From the outset of the tenancy, the tenant made several verbal requests for the landlord to carry out repairs. The rental unit was in very poor condition, including blue crayon all over the walls, stains and burns in the carpets, a very loose banister, door frames falling off of doors, and mould. Whenever the tenant requested repairs, the landlord would reply that if she didn't like it, she could move. The tenant requested that the landlord replace the back door, as it was very flimsy, and the landlord replied that he would repair it if the tenant paid him two months' rent.

In October 2009 the tenant gave the landlord a letter that pointed out the deficiencies in the rental unit, including problems with the front and back doors, a cracked and leaking toilet, rotten carpet underlay that caused the carpet to bunch up and interfered with opening the door, and excessive mould in the basement. The tenant also noted that she was responsible for the cost of all the hydro for the shared laundry facilities as well as for the hydro costs whenever the landlord used his electric mower to cut the grass. The landlord did address the toilet and he took some steps regarding the front and back door but did not do adequate repairs on them.

The tenant and her daughters became ill because of the excessive mould in the rental unit. The tenant missed 17 days of work, one of her daughters missed 21 days of work, and her youngest daughter missed 29 days of school, all of which the tenant attributed to symptoms resulting from the mould. The tenant stated that because of the bunched-up carpeting that caused problems with opening the door, on one occasion the tenant's youngest daughter, who suffers from autism, became trapped in the bedroom.

The tenant provided evidence to support her application in the form of photographs of the rental unit and letters from family and friends regarding the condition of the rental unit and the landlord's unprofessional behaviour during the tenancy.

The tenant has claimed \$300 for the cost of replacing lost groceries, partial compensation for the days of work she missed due to mould allergies, and half a month's rent and the damaged deposit she had to pay for another place when she moved out of the rental unit.

The landlord's response to the tenant's application was that the tenant did not provide clear evidence to support her monetary claim and she is not entitled to any monetary compensation. The landlord repaired the chain on the back door on July 16, 2009, and in the 10 years he has owned the house, he has never had any tenants complain about the back door being unsafe. The landlord acknowledged receiving the tenant's letter in October 2009, and he followed up by repairing the front and back doors and the toilet. The rest of the complaints in the letter were not valid. The tenant was charged less rent than the tenants in the other unit because of the hydro for the laundry.

Analysis

In considering the testimonial, photographic and documentary evidence, I find that the tenant has not provided sufficient evidence to support her monetary claim. The tenant did not provide doctor's notes or other evidence to support her claims that her health was impacted by mould in the rental unit. The tenant provided little evidence to establish the presence of mould in the unit, and little or no evidence to establish that the landlord was responsible for the presence of the mould. The tenant did not make an application during the tenancy for an order that the landlord conduct repairs or emergency repairs to the rental unit. The tenant did not provide sufficient evidence to establish that the unsafe condition of the rental unit was such that the landlord fundamentally breached the tenancy agreement, and I therefore find that the tenant is not entitled to recover her costs for choosing to end the tenancy and move out.

Conclusion

The tenant's application is dismissed. As the application was unsuccessful, the tenant is not entitled to recovery of the filing fee for the cost of her application.

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