



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, ERP, RP, PSF, RR, FF, O

Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for damage or loss - Section 67;
2. An Order requiring the Landlord to comply with the tenancy agreement - Section 62;
3. An Order requiring the Landlord to make emergency and other repairs – Section 32;
4. An Order requiring the Landlord to provide services required by law - Section 65;
5. An Order allowing the Tenant to reduce rent for services agreed upon but not provided – Section 65;
6. An Order to recover the filing fee for this application - Section 72;
7. Other.

The Landlord and Tenants were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Landlord required to comply with the tenancy agreement?

Is the Landlord required to make emergency and other repairs?

Is the landlord required to provide services required by law?

Is the Tenant entitled to reduced rent?

Background and Evidence

Undisputed facts are that the tenancy of a basement suite unit began on September 16, 2009 and that rent in the amount of \$1,650.00 is payable in advance on the first day of each month.

The following sets out the disputed matters under subject headings:

Mould

The Tenants state that mould was discovered in a bedroom closet at the end of 2010 and that they advised the Landlord of the problem but the Landlord did nothing. The Tenants state that they consulted a health inspector who advised them that they should not leave a child in that bedroom due to health concerns, that the reason for the mould is because the air is too damp and that the room should have both heat and a dehumidifier. The Tenants state that there is no heat in that bedroom.

The Landlord states that the unit was recently renovated and that the mould is caused by the actions of the Tenants themselves in hanging their laundry to dry inside the unit. The Landlord does not believe that an inspector was consulted by the Tenants as they have had no report from such an inspection provided to them.

The Tenants state that although the lease provides for free laundry, the Landlord's have not provided a clothes dryer and the area that the Landlords have suggested they hang their clothes is full of unclean articles.

The Tenants ask for an order compelling the Landlord to provide heat and a humidifier in the bedroom. The Tenants also state that the mould has damaged their luggage and claim \$200.00 in compensation for their loss.

Heating

The Tenants state that the unit is cold and that Landlord refuses to increase the heat. The Tenant submitted photo evidence of a thermostat reading that indicates the heat measures approximately 10 degrees Celsius. The Landlord confirms that they control the heat for the unit but state that they keep the temperature at 20 degrees Celsius. They state that the thermostat in the photo is placed in an area that incorrectly measures the temperature inside the unit. The Landlord further states that since the application, they have increased the heat setting to 25 degree Celsius. The Tenants state that they have not felt any difference in the heat in their unit and do not believe that the Landlord has increased the temperature. The Tenants ask for an order allowing them to reduce their rent by \$100.00 a month to compensate them for the past loss of heat and an order requiring the Landlords to maintain a sufficient level of heat, or 20 degrees Celsius, in the unit.

Wireless Internet

The Tenants state that when they signed the tenancy agreement, the Landlord verbally agreed to include wireless internet which was provided until April 2011 when the Landlord terminated their access. The Tenants further state the other tenants in the house continue to use the Landlord's wireless for free. The Landlord states that there was never any oral agreement to provide the Tenants with wireless access and that this was provided to them simply out of generosity. The Landlord states that since February 2011, they have held several conversations with the Tenants about getting their own wireless service as the Tenants use the wireless to the extent that the Landlord is not able to access the internet themselves. The Tenants state that they have since installed their own wireless service and ask for compensation in the amount of \$250.00 for their loss of the service.

Parking

The Tenants state that in September 2010, the Landlord verbally agreed to provide them with parking in the back yard and a remote control for the gate at no charge. The Tenant states that the Landlord stopped their access to this parking on May 12, 2011. The Landlord states that there was no verbal agreement to include parking with the

tenancy. The Landlord states that at the start of the tenancy, the Tenants did not have a car and that the parking space in the back yard had been used by another family member. The Landlord states that when this family member departed the premises, the space became available, the Tenants now had a car and it was only out of generosity that the Tenants were given access to the space at no charge. The Tenants ask for an order requiring the Landlord to return the use of the parking space and remote control and also ask for a monetary award of \$250.00 in compensation for loss of the use of the parking space.

Other

The Tenants stated at the hearing that their request for the installation of a smoke and carbon monoxide detector has been met by the Landlord and they no longer wish to make any claim in respect of these items. The Tenants further state that as the Landlord has agreed that the children can play in the backyard, they no longer wish to pursue approval for the children to play soccer as well in the backyard. The Tenants did not provide any background or evidence in relation to any other claim requiring the Landlord to provide services required by law.

Analysis

MOULD and HEAT

A landlord is responsible for maintaining rental units in compliance with health, safety and housing standards and to such an extent that they are reasonably suitable for occupation. Tenants are responsible for maintaining reasonable health, cleanliness and sanitary standards. I accept the Tenants' evidence that mould exists in the unit, that they advised the Landlord of its presence upon discovering the mould and that the Landlord has not responded to the matter. I also accept the Tenants' evidence that their unit is kept cold and the Landlord's evidence that the Tenants' hang their laundry to dry inside the unit. I note the lease agreement provides the Tenant with "free laundry" and yet the Landlord has only provided a washing machine for the laundry.

I find that while both the Landlord and Tenant have each contributed to the appearance of mould by maintaining a cold, damp basement unit, the Landlord bears the greater responsibility as they have control over the heat and have not provided the Tenants with a dryer for the clothes. The Landlord cannot meet the term of the lease agreement for the provision of "free laundry" by only providing a space to hang laundry. This is not a reasonable interpretation of such a term of the lease. Accordingly, I find that the Landlord is in breach of the lease agreement by not providing a clothes dryer to the Tenants and order the Landlord to immediately provide a clothes dryer for the Tenants' use. Should the Landlord not provide the Tenants with access to a clothes dryer by June 30, 2011, I authorize the Tenants to reduce their July rent by the amount of \$100.00 and to make such a reduction for each month thereafter that the Landlord does not provide a clothes dryer by the last day of the preceding month. (i.e., if the Landlord does not have the item in place by July 30, August rent will be reduced by \$100.00)

Given the existence of mould in the bedroom closet, the lack of heat in the bedroom and the lack of reasonable heat in the unit, I find that the Tenants have substantiated their claim for an order requiring the Landlord to increase the heat and to specifically provide heat and a dehumidifier in the bedroom. Accordingly, I order the Landlord to maintain the heat in the unit at a reasonable level, such as the 20 degrees Celsius requested by the Tenants, taking into account seasonal requirements for such heat. I also order the Landlord to install a baseboard heater and dehumidifier in the bedroom affected by mould by no later than June 30, 2011. Should the Landlord fail to install the heater and dehumidifier by June 30, 2011, I authorize the Tenants to reduce their July rent by the amount of \$100.00 and to make such a reduction for each month thereafter that the Landlord does not provide a heater and dehumidifier by the last day of the preceding month. (i.e., if the Landlord does not have the item in place by July 30, August rent will be reduced by \$100.00)

Since the Tenants have been without a reasonable level of heat in the unit and have also been without a clothes dryer since the beginning of the tenancy, I find that the Tenant is entitled to compensation in the amount of \$100.00 for a period of 21 months

from the start of the tenancy to the end of June 2011 for a total amount of **\$2,100.00**. Taking into account the Tenants' contribution to the development of the mould in the unit, I find that the Tenants are entitled to compensation for the loss of their luggage in the reduced amount of **\$150.00**. The Tenant is also entitled to recovery of the \$50 filing fee, for a total entitlement of **\$2,300.00**. I authorize the Tenants to deduct this amount from future rent payable to the Landlord.

Calculation for Monetary Award

Compensation for loss (heat and dryer)	\$2,100.00
Compensation for loss (luggage)	150.00
Filing Fees for the cost of this application	50.00
Total Monetary Award	\$2,300.00

WIRELESS INTERNET and PARKING

Given that the lease agreement does not make reference to internet access or parking and preferring the evidence of the Landlord that no such oral agreements were made in relation to wireless access or parking, I cannot find on a balance of probabilities that the Tenants have substantiated their claim for wireless internet access or parking. Accordingly, I dismiss this part of the Tenants' application.

Conclusion

I Order the Landlord to provide a clothes dryer for the Tenants' use and to install a baseboard heater and dehumidifier in the bedroom affected by mould by no later than June 30, 2011.

I Order the Landlord to maintain the heat in the unit at a reasonable level.

I Grant the Tenant a monetary award in the amount of **\$2,300.00** pursuant to section 67 of the Act and authorize the Tenants to deduct this amount from future rent payable 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: June 09, 2011.

Residential Tenancy Branch