

DECISION

Dispute Codes:

MNDC, OLC, ERP, RP, LRE, RR

Introduction

This is the Tenants' application for compensation for damage or loss under the Act, regulation or tenancy agreement; for an Order that the Landlord comply with the Act and make regular and emergency repairs to the rental unit; to suspend or set conditions on the Landlord's right to enter the rental unit; and for a reduction in rent for repairs, services or facilities agreed upon but not provided.

The parties gave affirmed testimony at the Hearing. It was determined that the Landlord's agent was served with the Notice of Hearing documents and copies of the Tenants' documentary evidence at 9:10 a.m., April 7, 2011 at the Landlord's office. The Landlord did not provide any documentary evidence.

Preliminary Matters

At the outset of the Hearing, the Tenants' agent advised that the Tenants did not intend to ask for an Order restricting or suspending the Landlord's right to enter the rental unit. Therefore this portion of the Tenants' application is dismissed.

Issue(s) to be Decided

- (1) Should the Landlord be ordered to comply with Section 32 of the Act and make regular and emergency repairs at the rental unit?
- (2) Are the Tenants entitled to compensation under the provisions of Section 67 of the Act?

- (3) Are the Tenants entitled to a reduction in rent, further to the provisions of Section 65(1)(f) of the Act?

Background and Evidence

This tenancy began on February 1, 2010. Monthly rent is \$1,050.00 due on the first day of each month. The Tenants paid a security deposit in the amount of \$525.00 at the beginning of the tenancy. A copy of the tenancy agreement was entered in evidence.

The Tenants' agent gave the following testimony:

In March, 2010, the Tenants advised the Landlord "Roman" in writing that their bathroom ceiling was leaking. The Landlord did nothing until October, 2010, when they opened up the Tenants' ceiling to investigate. That was 6 months ago and the Landlords finally fixed the ceiling on April 14, 2011. The Tenants provided photocopies of the ceiling in evidence.

Since the Tenants moved into the rental unit, at peak times of the day, the hot water is barely warm in the rental unit. The Tenants have complained, but the Landlord did nothing to fix the hot water until April 7, 2011 when they gave notice that the boiler was going to be serviced. The Tenants provided a copy of the notice in evidence.

There have been four building managers since the Tenants moved in and each time they got a new manager, they told them about the problems they were having with the leaky ceiling and the lack of hot water.

The Tenants seek compensation in the amount of \$1,100.00 in compensation for having to live for a year with a leaky ceiling in their bathroom, having to put up with an open ceiling for 6 months and for lack of hot water for taking showers.

The Landlord's agent gave the following testimony:

The Landlord's agent just started working for the Landlord on February 3, 2011. She acknowledges that there was a problem with the Tenant's ceiling leaking, but doesn't know when the leak began. The Landlord's agent cannot find any notes on the Tenants' file indicating that they complained about the ceiling in March, 2010.

The Landlord made repairs to the roof and flashing on April 1, 2011, and finished repairing the Tenants' ceiling on April 14, 2011. Everything should be fine now.

The Landlord's agent acknowledged that there was a problem with the hot water boiler, but stated that it should have been fixed last week.

Analysis

The Landlord's agent was not able to provide me with information with respect to when the roof started leaking, or what steps were taken to address the leak. She stated that there was no documentation on the Tenants' file, but I do not find that as proof that the Tenants did not provide written notification to the Landlord in March, 2010. The Tenant's file has passed through the hands of 4 building managers in the space of one year. I accept the Tenants' testimony that they provided "Roman" with written notice of the leak in March, 2010, and that they have notified each new building manager of the leak. I accept the Tenants' testimony that nothing was done to investigate the cause of the leak between March, 2010 and October, 2010, and that nothing was done to fix the cause of the leak until April, 2011.

The Tenants provided photographs of the ceiling which depict a very poorly patched ceiling with water damage to the adjoining wall and what appears to be moisture running from the ceiling down to the toilet.

The Landlords have taken steps to fix the leaks and the hot water, and therefore I decline to Order the Landlords to comply with the Act.

Section 32(1) of the Act requires a Landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 67 of the Act states:

Director's orders: compensation for damage or loss

67 Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Based on the Tenants' agent's testimony and the Tenants' documentary evidence, and in the absence from any evidence to the contrary from the Landlord, I find that the Landlord failed to comply with Section 32 of the Act and that the Tenants have suffered a loss as a result of the Landlords' failure to comply. I grant the Tenants' application and award them \$1,100.00 in compensation. Pursuant to the provisions of Section 72 of the Act, I authorize the Tenants to deduct \$1,100.00 from future rent due to the Landlord.

I find that this compensation is sufficient and decline to order a reduction in past or future rent.

At the time of the Hearing, the roof had only been repaired for two weeks, the boiler for one week, and the ceiling in the bathroom for one day. The Tenants are at liberty to file

another application for a rent reduction or for compensation should the repairs that have been made prove to be insufficient to address the leaks and the lack of hot water.

Conclusion

The Tenants may deduct \$1,100.00 from future rent due 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: May 03, 2011.

Residential Tenancy Branch