



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC RP FF O

Introduction

This hearing dealt with an application by the tenant for monetary compensation for loss under the Act and an order for repairs. The tenant and an agent for the landlord participated in the teleconference hearing.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?
Should the landlord be ordered to do repairs?

Background and Evidence

The tenancy began on July 1, 2010, with monthly rent in the amount of \$825 until July 2011, when the rent was increased to \$835. The rental unit is a bachelor apartment with a "Murphy bed," or retractable bed that pulls out from the wall, included as part of the rental unit.

The tenant's evidence was as follows.

In January 2011 the tenant informed the landlord that the wheels on her bed were broken and the tenant could not put the bed back into the wall. The landlord did not properly repair the bed until May 2011. As a result, the tenant lost use of approximately 20 percent of her apartment for that time. The tenant has claimed 20 percent of her rent for five months, for a total claim of \$825.

A guest of the tenant had been parking his truck near the building, and one day a note was left on his windshield which stated as follows: "Leave a note on your dash if you have permission to park here. Otherwise you are registered to be towed. Management." The tenant's guest then left a note stating that he was visiting the tenant's suite, and left a phone number. Despite this, the truck was towed. The tenant has claimed the towing cost of \$104.

On June 10, 2011 the tenant gave the landlord a letter requesting repairs. The letter addressed several problems, of which the following had not been addressed by the time of the hearing: (a) rodents in the rental unit; (b) a request for the kitchen window to be properly weatherproofed; and (c) a leak in the kitchen sink that was causing mould or fungus to grow. The tenant sought an order for those repairs to be carried out.

The response of the landlord was as follows.

The landlord fixed the wheels on the bed on four separate occasions, in August 2010, November 2010, February 2011 and May 2011. On each occasion, the tenant informed the landlord that one or more wheels was broken, and the landlord then replaced the wheels. On the fourth occasion, the tenant informed the landlord on April 4, 2011 that the wheels had broken, and the landlord decided to find more sturdy wheels. The landlord therefore was not able to carry out the repairs on the fourth occasion until May 17, 2011. The landlord's position is that they were diligent in doing repairs to the bed, and the tenant is therefore not entitled to compensation.

The tenant's guest did not have permission to park his truck where he did. There are three large signs warning about towing, and the landlord's agents warned the tenant's guest four times that he would be towed. The landlord disputed the tenant's claim for reimbursement of the towing cost.

The landlord was not aware that the rodent problem had not been resolved, or that the kitchen window needed to be weatherproofed. The landlord stated that they would take care of the kitchen window.

Analysis

In considering all of the evidence, I find as follows.

I accept the evidence of the tenant that during the times the wheels on her bed were broken, she lost use of approximately 20 percent of the use of her apartment. However, it is not clear from the tenant's evidence that she could not return the bed to the wall position for the entire period from January through May 2011. Further, other than the last occasion on April 4, 2011, it is not clear whether the tenant promptly informed the landlord that the wheels were broken and there was any delay before the landlord replaced the wheels. I accept the landlord's testimony that the delay between April 4 and May 17, 2011 was because the landlord wanted to replace the wheels with something sturdier, and the landlord acted diligently to obtain sturdier wheels. However, when there is a loss of use of a portion of a rental unit, despite diligence on the part of

the landlord, the tenant is entitled to a reduction in rent to reflect the loss of use. I therefore find that the tenant is entitled to compensation equivalent to 20 percent of her rent for a period of approximately 6 weeks, from April 4 to May 17, 2011, in the amount of \$247.50. The remainder of the tenant's claim for compensation regarding the broken wheels on the bed is dismissed.

I find that the tenant is not entitled to the amount claimed for towing. The tenant's guest was warned not to park where he did, there were clear signs indicating that vehicles parked without permission would be towed, and the tenant's guest did not have permission to park there. I dismiss the portion of the tenant's claim regarding towing.

I accept the tenant's evidence regarding the outstanding repairs that were brought to the landlord's attention in writing on June 10, 2011. Accordingly, I order that the landlord carry out the following repairs: (a) effectively address the rodent problem in the rental unit; (b) properly weatherproof the kitchen window; and (c) repair the leak in the kitchen sink.

As the tenant's application was partially successful, I find that she is entitled to partial recovery of her filing fee, in the amount of \$25.

Conclusion

The tenant is entitled to monetary compensation of \$272.50, which she may deduct from her next month's rent.

The landlord must carry out the above-noted repairs within 15 days of receiving this decision. If the landlord does not carry out the repairs within this time frame, it is open to the tenant to apply for monetary compensation.

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: July 20, 2011.

Residential Tenancy Branch