

DECISION

Dispute Codes OLC, ERP, RP, MN, FF

Introduction

This is an application filed by the Tenant for the Landlord to comply with the Act, regulation or tenancy agreement, to make emergency repairs for health or safety reasons, to make repairs to the unit, site or property and recovery of the filing fee.

The Tenant has not made a formal application for a monetary order in the body of her application for dispute, but is clearly included in her details of dispute. A monetary order request is included as part of the Tenant's application for loss of quiet enjoyment and compensation for a new tire.

This application was originally set for hearing on July 19, 2011, but was adjourned because the Landlord was not properly served with the Tenant's evidence which contain her details of dispute for repair and monetary order requests. This application was reconvened on this date.

Both parties attended the hearing by conference call and both parties have confirmed that neither has submitted any further documentary evidence. The Landlord has confirmed receiving the Tenant's evidence and has referred in detail to them in his testimony.

The Landlord shall immediately provide a copy of the condition inspection report dated May 1, 2011 to the Tenant within 48 hours of receipt of this decision.

The Tenant has withdrawn her request for emergency contact information to be posted in a visible place in the house. The Tenant has confirmed that contact information already in her possession.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

Both parties have agreed to meet on August 23, 2011 at 10:00 a.m. at the rental property to inspect and start repairs from the Tenant's list of requests for repair (The Landlord has confirmed in the hearing with the Tenant the list of repair requests) as

listed on page 4 and 5 of the Tenant's evidence, numbered C 1-16(except C 12). The Landlord shall complete repairs within 14 days of the inspection date. Both parties agree that if a dispute over the completion of a listed item is in dispute, the Landlord shall obtain the services of a certified expert for an opinion in writing. Both parties have agreed to abide by this expert opinion. If there is a dispute over the expert opinion, either party may apply for dispute resolution over that issue.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order for reimbursement of a damaged tire?
Is the Tenant entitled to a monetary order for loss of quiet enjoyment?

Background and Evidence

This Tenancy began on May 1, 2011 on a month to month basis. The monthly rent is \$1,800.00 payable on end of each month. A security deposit of \$900.00 was paid on April 24, 2011.

The Tenant has put forth a claim of repair requests at the beginning of her Tenancy on May 1, 2011. The Landlord has confirmed receipt of the Tenant's letter dated May 4, 2011 which list issues of concern. The Landlord has stated that communication issues have occurred which prevented a response, but that the Landlord has made 2 attempts to schedule meetings with the Tenant. The Tenant states that the Landlord has only made 1 attempt. The Landlord has not responded to any of the Tenant's concerns as of the date of this hearing.

The Tenant is also seeking compensation of \$400.00 for the loss of quiet enjoyment of the rental. The Tenant states that this amount is based on an approximation of 25% of the monthly rent because of the repair issues being sought and not addressed in a timely manner by the Landlord. The Landlord disputes this stating that the issues stated by the Tenant are all small issues that can easily be dealt with.

The Tenant has made a monetary claim for the reimbursement of a tire damaged on the property due to broken glass left on the driveway. The Tenant is seeking the reimbursement cost of \$164.89 as shown in the Canadian Tire Receipt submitted. The Tenant states that the tire was damaged due to the negligence of the Landlord not cleaning up the broken glass. The Landlord disputes this stating that the glass was removed. The Landlord disputes that any left-over glass would cause a tire to be damaged as it was tempered glass bits.

Analysis

As both parties have attended the hearing and the Landlord has confirmed receipt of the Tenant's evidence package, I am satisfied that both have been properly served. The Landlord has not submitted any evidence.

I find based upon the direct evidence of both parties that the Tenant has failed to establish a claim for loss of quiet enjoyment. The issues arise out of poor communication between the two parties. However, I do find that the Landlord has failed to respond to the Tenant's concerns in a timely manner, as shown in the 3 ½ month delay to meet over repair issues. I find that the Tenant is entitled to a nominal award of \$50.00 per month for the 3 ½ months. The Tenant is granted an award of \$175.00.

As for the Tenant's claim for the reimbursement of a damaged tire, I find that the Tenant has failed to establish a claim for this cost. Based upon the evidence provided by both parties, I find that the Tenant has failed to show that the Landlord was responsible or negligent. This portion of the Tenant's claim is dismissed.

The Tenant is entitled to recovery of the \$50.00 filing fee.

Conclusion

I order that the Tenant may withhold \$225.00 (\$175.00 nominal award + \$50.00 filing fee) from September 2011 rent in satisfaction of this claim. The rent for September 2011 is \$1,575.00.

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: August 18, 2011.

Residential Tenancy Branch