



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This matter dealt with an application by the tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement, and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was hand delivered to the landlord. The landlord agreed she had received these documents.

Both parties appeared, gave sworn testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly sworn evidence presented at the hearing I have determined:

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

Both parties agree that this tenancy started on September 01, 2001. The tenant pays a monthly rent for his unit of \$480.00 on the 1st day of each month.

The tenant testifies that when he moved into the rental unit it had the original flooring which was very worn. He states he kept asking the owners of the building at that time to replace the flooring. He states that eventually new owners purchased the building and he again asked them to replace his flooring. He states they told him they had to do work in all the units and would replace flooring as tenants moved out. The tenant states he continued to ask for his flooring to be replaced and was told by the manager that he would be next but he could not say when that would be but if he wanted it done sooner than the tenant would have to pay to have the flooring fitted. The tenant states that at the time he was not aware he could file an application for Dispute Resolution as he was not aware of the existence of the Residential Tenancy Branch.

The tenant testifies the landlord eventually provided laminate flooring in July, 2008 and the manager told him it would cost \$250.00 to have it fitted. The tenant testifies he could not afford to pay that so got a friend to fit it for \$150.00. The tenant seeks to recover this from the landlord along with his \$50.00 filing fee. The tenant has provided a receipt showing \$150.00 was paid on July 17, 2008.

The landlord testifies that they brought the building in late 2006. She states the building was inspected at that time and it was noted that they needed to replace the flooring in two units and the flooring in five other units had some wear. She states this tenants unit was not identified as needing new flooring at that time.

The landlord agrees the tenant did request new flooring and was told his would eventually be replaced. The landlord testifies the tenant asked for laminate flooring and agreed if the landlord provided the materials he would pay for the installation. This occurred in July 2008. The landlord states she has concerns that the tenant has waited three years to bring this claim forward.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I refer both parties to s. 32(1) of the Act which states:

A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

The tenant argues that his flooring was worn and required replacement. The landlord argues that the tenants' carpet was not on the list of required work when they purchased the building. Neither party has provided any evidence to support either of these claims but both parties agree the tenants' floor was replaced in due course.

The tenant argues that as it is the landlord's responsibility to maintain the rental unit he should not be made to pay for the fitting of the new flooring and seeks to recover this cost from the landlord. I find in this matter that the landlord did intend to replace the tenants flooring at some stage further down the ongoing list of repairs to the building. As the tenant asked for this work in his unit to be completed ahead of the landlords schedule he had to pay the cost of the installation. It is my decision that in normal circumstances this installation would be the responsibility of the landlord. I find despite the time frame since the work was completed the landlords cannot pass this cost onto the tenant.

Consequently the tenants' application to recover the **\$150.00** is upheld and he will receive a Monetary Order pursuant to s. 67 of the *Act*.

As the tenant has been successful with his claim I find he is entitled to recover the **\$50.00** filing fee paid for this proceeding pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$200.00**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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: October 03, 2011.

Residential Tenancy Branch