



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, OLC, ERP, RP, RR, FF

Introduction.

This hearing dealt with an application by the tenants, pursuant to the *Residential Tenancy Act*, for a monetary order for compensation for loss of quiet enjoyment and for the inconvenience they have endured and continue to endure while the public areas of the building await repair and renovation. The tenants also applied for an order to have the landlord comply with the *Act* and complete repairs to the building, reduce rent and cover the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Was the landlord negligent in responding to the tenants' complaints? Did the tenants suffer a loss of quiet enjoyment? Are the tenants entitled to compensation and a rent reduction?

Background and Evidence

The tenancy started on March 01, 2010. Rent is \$1,400.00 due on the first of each month. The rental unit is an apartment located in a building complex. The building is 44 years old and is in need of major maintenance.

The tenants stated that after they entered into the tenancy agreement they found out that comparable units were renting for \$1,200.00. Their requests to have their rent reduced were refused.

In July 2010, the tenants wrote a letter to the landlord asking that the public areas of the building be repaired, renovated or replaced. The letter specifically mentioned areas that needed attention. The tenants stated that the landlord did not take action to rectify the problems.

Regarding the inside of the unit, the tenants stated that the bathroom faucet leaked on an ongoing basis. Every time they reported the problem, the landlord had it fixed, but

the problem came back a few weeks later. During the hearing the landlord agreed to have the faucet replaced.

The tenants also complained about the lack of security in the building as the doors were sometimes propped open using an object to keep them open, thereby compromising the security of the building. The landlord stated that the plumber was the person who propped the door open and after he was advised not to do so, the problem has not been reported since. The tenants stated that the cleaning lady also did it, but the landlord informed the tenants that the cleaning lady kept the door open to dry the floor and she was always present while the door remained open.

The tenants' letter also spoke about the problems with the main door which resulted in them being locked out on more than one occasion. The landlord explained that it is a common practice for the occupants of the building to insert a key into the lock and then used the engaged key to pull open the door. This results in damage to the tumbler which eventually ceases to work and requires resetting. The landlord has agreed to place signs on the door instructing the occupants on how to refrain from damaging the locking system of the main door.

The tenants complained about a cockroach problem and the landlord stated that an exterminator was hired in December 2010 and the problem was resolved. However, the manager stated that she was just starting to get complaints again and agreed to get the exterminator to take care of the problem immediately.

The tenants stated that the garden was not looked after and the cleaning of the public areas was unsatisfactory. The landlord agreed to take care of both issues and hire additional help if necessary.

The landlord stated that the building is old and the entire plumbing system needs to be replaced. This is a major undertaking and is dependent on the budget. The plumbing work started in June 2011 and upon completion of this work, the carpets, paint and other renovations will get done. The landlord stated that it would not be practical to replace carpets and paint the walls prior to the completion of the plumbing work. The flooring in the lobby has already been replaced.

In addition to a rent reduction, the tenant is claiming the following:

1.	Return of rent paid @\$200.00 per month from July 2010	\$2,800.00
2.	Compensation for stress and anxiety	\$500.00
3.	Loss of wages for day of hearing	\$292.00
4.	Filing fee	\$50.00

	Total	\$3,642.00
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Analysis

Section 32 of the *Residential Tenancy Act*, speaks to the landlord and tenant obligation to repair and maintain the rental unit. The landlord must provide and maintain the rental 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.

In this case, I find that the landlord fulfilled her obligations by acting on the tenant's complaints in a timely manner and making the necessary arrangements to repair the faucet, hire an exterminator and address the propping open of doors.

Based on the testimony of the landlord, I find that the building is over forty years old and is in need of a replacement of the entire plumbing system. I also find that it is reasonable and cost effective to carry out the renovations of the public areas after the plumbing system is updated. This plumbing work has already started and the flooring in the lobby has already been replaced and therefore I find that the landlord is not negligent with regard to her responsibilities as a landlord.

The tenants are requesting a rent reduction based on the condition of the public areas and on the fact that similar units pay less rent. I find that the tenants are not entitled to a rent reduction for the following reasons:

1. The tenants chose to enter into a tenancy agreement to rent an apartment in a building which was forty plus years old and needed major updating
2. The landlord has already started the work required to renovate the public areas.
3. The tenant could have requested information on the rent of other units prior to entering into a tenancy agreement with the landlord.

During the hearing the landlord agreed to make the following changes:

1. Replace the faucet in the rental unit
2. Monitor the cleaning activity of staff and hire additional cleaner if necessary
3. Arrange for the garden to be tended
4. Hire exterminator to resolve cockroach problem
5. Notify all residents/staff to ensure that doors are properly shut and instruct all residents/staff on proper use of main door entry key
6. Install a fan in the laundry room
7. Provide updates on work schedule to tenant.

I find that the tenants may have to endure some inconvenience while the restoration work is in progress, but temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment, compensation or a rent reduction. Accordingly, the tenants' monetary claim for the return of rent and compensation for stress and anxiety is dismissed.

The legislation does not permit me to award any litigation related costs other than the filing fee. Accordingly the tenants' claim for loss of wages is dismissed.

Based on the sworn testimony of both parties, I find that the tenants have not proven negligence on the part of the landlord. Accordingly, the tenants' application is dismissed and they must bear the cost of filing this application.

The tenants are at liberty to file another application for compensation, if the landlord does not comply with the above agreed upon list of improvements in a timely manner.

Conclusion

The tenant's application is dismissed.

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 11, 2011.

Residential Tenancy Branch