



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RP, RR, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order and an order to have the landlord complete repairs and reduce rent until such repairs are made.

The hearing was conducted via teleconference and was attended by the tenant and the landlord's agent.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation; for an order to have the landlord make repairs; and to reduce rent until repairs are made and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began in October 2007 as a month to month tenancy with a current monthly rent of \$1,049.00 due on the 1st of each month with a security deposit of \$495.00 paid.

The tenant testified that on August 23, 2011 they reported to the onsite manager a leak in the under the kitchen sink and faucets in both the kitchen and bathroom. The tenant stated the onsite manager provided the tenants with a bucket to put under the sink but that the bucket also had holes in it. The tenant testified further that each week the onsite manager would assure them that someone was coming to fix the problem but no one ever came.

The tenant testified that on September 29, 2011 he contacted the landlord's head office and was assured a plumber would come by on October 3, 2011. The landlord's agent

testified that as a result of an emergency repair at another location the plumber was not able to attend this unit until October 6, 2011.

The tenant testified that repairs were made however the leaky faucet in the bathroom still leaks, but less than before and now it squeals when being used. The tenant testified that on October 18, 2011 he has requested someone come back and that the onsite managers promised someone would come as soon as possible. When no one had come by the tenants contacted the onsite managers again on October 22, 2011 to remind them but to date no one has come.

The landlord's agent testified they have no written requests for repairs from this tenant and that the usual practice is that tenants provide their requests to the onsite manager, preferably in writing, and that the onsite manager contacts the maintenance manager when requests require his attention. The landlord also testified she was not aware of any subsequent repairs requested by the tenants since the initial repairs were completed.

The tenant seeks the following compensation for the time already taken to make repairs:

Description	Amount
Laundry - \$8 x 6 weeks	\$48.00
Time spent doing laundry	\$40.00
Time spent cleaning spills and mould	\$70.00
Time spent driving to Residential Tenancy Branch (RTB) - 4 hours @ \$40/hour	\$160.00
Fuel to drive to RTB	\$30.00
Parking at RTB	\$10.00
Time spent waiting for plumber to show up – 7 days for a few hours each day	\$100.00
Total	\$458.00

Analysis

I accept the tenants continue to have problems with the faucet in the bathroom and despite the landlord's testimony that she was not aware of any subsequent requests, I order the landlord to investigate the tenant's outstanding complaint and make appropriate repairs.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

I accept the tenant's position that he may have incurred some costs and losses related to driving to the RTB, including his time and fuel and parking costs, however I also accept the landlord's position that these are choices the tenant has made in order to pursue his Application, and not a direct result of a violation, on the part of the landlord, of the *Act*, regulation or tenancy agreement. For example, the tenant could have applied online and not incurred any of these additional costs.

As to the tenant's claim for time lost waiting for a plumber to arrive, despite the tenant's desire to see the plumber to tell them what the problem is, there is no requirement that the tenant be present when the landlord or their service providers complete repairs and as such, I find this time spent was also a choice on the part of the tenant and not a direct result of a violation of the *Act*, regulation or tenancy agreement on the landlord's part.

In regard to the tenant's Application for compensation for cleaning up spills and mould, I find the tenant provided no evidence that any mould was developing and required any special cleaning as a result of the plumbing leaks. I also find the tenant has failed to provide any evidence that any spills resulted from any delay in the landlord's response to the request for repairs.

The tenant has also failed to provide any evidence to substantiate there was a requirement to do any additional laundry as a result of any delay in the landlord's response to the request for repairs.

While I accept the tenant's position that the onsite manager is the landlord's representative and the landlord must comply with the *Act*, in relation to making repairs, once a request has been made to any representative of the landlord, the burden of proof is on the tenant to provide evidence that the matter was reported to that onsite manager in accordance with his testimony.

I find the tenant has failed to establish that these repairs were requested any earlier than September 29, 2011 and in fact, even the subsequent repairs that have been requested, I find the tenant has failed to provide any documentary evidence of a report to the landlord agents either onsite or at the head office.

As the landlord's agent testified that she is unaware of any subsequent requests, I find the tenant has failed to meet the burden of proof that the landlord has violated the *Act*, regulation or tenancy agreement.

Conclusion

While I have ordered the landlord to investigate and make any appropriate repairs, I dismiss the financial components of the tenant's Application for the reasons noted above. Further, as the tenant was largely unsuccessful in his Application, I dismiss his application to recover the filing fee.

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: November 01, 2011.

Residential Tenancy Branch