



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

FF ERP LRE MNDC OLC RP

Introduction

This hearing dealt with an application by the tenant for a monetary order and an application by the landlord for a monetary order. Both parties requested recovery of the filing fee. Both parties attended the hearing and had an opportunity to be heard.

The tenant had originally requested other orders for repairs and emergency repairs and an order that the landlord comply with the Act but these requests have been withdrawn because the tenant has since vacated the rental unit.

Issue(s) to be Decided

Are the parties entitled to the requested orders?

Summary of Background and Evidence

This tenancy began on April 1, 2011 and ended on September 30, 2011. The rent was \$900.00 per month. A security deposit of \$450.00 was paid at the start of the tenancy.

When the tenants moved into the rental unit they were told by the landlord that several items would be fixed immediately. The toilet was not working properly, the showerhead was broken and there was a two inch gap at the bottom of the front door. The tenant claims that despite repeated promises from the landlord, nothing was ever properly fixed. The tenant said that it was "horrible", the toilet was leaking onto the floor and did not flush properly. The tenant also described watching three mice at a time running under the front door of his unit. The tenant submitted extremely detailed descriptions of the myriad problems he was having at the rental unit. I do not need to repeat them all here.

For the landlord's part, Ms. A disputes all of the tenant's claims about the problems in the rental unit. According to the landlord there were none of these problems in the rental unit and that the tenant is not telling the truth. Ms. A also said that they tried to gain access to the rental unit on many occasions but that the tenant would not allow

them entry. Ms. A said that she had several Notices of Entry which had been given to the tenant but that these notices had been stolen from the furnace room. Ms. A also said that they had bought a replacement toilet for the unit but that it was also stolen. Further, Ms. A claims that the landlord is entitled to recover the cost to the landlord of having repairmen go to the tenant's unit only to find that they cannot gain entry

Analysis

Tenant's Claim

The tenant has made a monetary claim in the amount of \$1,500.00 comprised of \$200.00 in paper towels (for mopping up the bathroom floor), \$900.00 in loss of quiet enjoyment and \$400.00 in lost income.

While I am not satisfied that the tenant is entitled to reimbursement for lost income or the cost of paper towels, I am satisfied that the tenant has provided sufficient evidence to support his claim for loss of quiet enjoyment. The tenant's extremely detailed description of the experience that he and his girlfriend had during their six month tenancy is persuasive. This detailed description was provided verbally at the hearing and in writing. I find therefore that the tenants are entitled to a monetary order for loss of quiet enjoyment in the amount of \$900.00 which is the equivalent of one month's rent or \$150.00 per month.

Landlord's Claim

The landlord has made a monetary claim in the amount of \$945.00. This claim is for "lost hours – notices rejected by the tenant + attempt to fix problems in the unit". The landlord has claimed 63 hours at \$15.00 per hour. In support of its claim the landlord submitted a list of dates upon which they claim to have booked a "maintenance guy" to attend at the rental unit and "solve problem". The landlord also submitted an invoice for a toilet and feed lines dated May 25, 2011, a copy of a Notice of Entry dated June 2, 2011 and a notice dated August 15, 2011 from the tenant asking the landlord not to enter when they are not home. The landlord states in the written submissions that due to a break in to the maintenance room on August 22, 2011 they lost all their maintenance reports regarding attempts to fix the rental unit.

At the hearing, I found it very difficult to understand the landlord's case. I also found the landlord's explanations for the lack of supporting evidence difficult to believe. Further, if what the landlord is claiming is true, namely, that the tenant was costing the landlord an extraordinary amount of money in terms of wasted maintenance charges – why did the

landlord not issue a notice to end the tenancy for cause? On balance, I find that I am not persuaded by the landlord's evidence or testimony in this case.

Conclusion

I am satisfied that the tenants have established a total monetary claim in the amount of \$900.00 as compensation for loss of quiet enjoyment of the rental unit. I am also satisfied that the tenants are entitled to recover the \$50.00 filing fee from the landlord. I therefore order the landlord to pay to the tenants the sum of \$950.00. This order may be filed in the Small Claims Court and enforced as an order of that Court.

I dismiss the landlord's application.

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*.