



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is a request for a monetary order for \$2500.00 and a request for recovery of the \$50.00 filing fee.

Background and Evidence

The applicant testified that:

- The rental unit was not as promised when she moved into it at the beginning of a tenancy.
- The landlords had not ensured that the rental unit was properly repaired prior to her taking occupancy and at the time that she moved in there were holes in walls stuffed with foil, there was a large opening under the sink, there was paint spattered on the carpet that had not been there when she originally viewed the unit, there was unfinished and uneven flooring and lifting linoleum around the toilet in the bathroom area, the stove hood fan was broken, there were burn marks on windowsills that should have been painted, there were unfinished areas on the floors and walls with pieces missing, the lock was old and needed to be repaired, and the cupboards were painted with just a primer.

- She also had numerous problems during the tenancy which were not dealt with in a timely manner.
- The refrigerator broke down and would not run properly, and leaked profusely however the refrigerator was not replaced for four months.
- There was a leak in the roof that caused the ceiling to collapse and a mould issue which was reported to the landlord in November of 2009 and although the roof was eventually repaired, the ceiling was never repaired.
- The carpet was in very poor condition when she moved in and it took the landlord a long time to replace the carpet.
- She had to deal with a mouse infestation which was not properly dealt with.
- She had an issue with the fire alarm that was not dealt with in a timely matter.
- She had an issue with noisy tenants that was not dealt with in a timely manner.
- She had a plumbing issue that was dealt with, however it caused a major inconvenience as well.
- All of these issues caused her a major loss of use and enjoyment of the rental unit and she believes she should be compensated \$100.00 per month for every month of the tenancy.
- She is also asking for \$100 compensation for lost wages for her time to deal with the landlords plumbing problem.

The landlords testified that:

- First of all the tenant did not make them aware of many of the things she is now claiming were wrong with the rental unit at the beginning of the tenancy.
- Secondly although there were numerous issues that arose during the tenancy they did deal with those issues as best they could. They may not have been dealt with in a timely manner, however the tenant never gave them any time frame in which to have the issues rectify.
- With regards to the fridge, the tenant had told them that the fridge was not an emergency issue and that she was monitoring the problem and therefore they did not feel there was any urgency to replace the fridge.
- They did eventually replace the fridge however it did turn out to be a very time-consuming project.
- The roof had been replaced in October of 2009 and therefore, when they were informed of the leak they called the roofer back numerous times to deal with the problem. The tenant then did not mention the leak for almost a year and they assumed it was repaired.
- The tenant also had the roofer's number and could have called the roofer at any time as the roof was under full warranty.

- The carpet in the rental unit was not aesthetically pleasing but it did not need to be replaced, however they did replace the carpet only four months after her tenancy.
- When a pest issue was reported they dealt with the problem immediately and called in a pest control company.
- With regards to the fire alarm it had been installed by a licensed electrician only a few days before the tenancy began and they do not recall being contacted about the alarm until they return from their trip.
- With regards to the noise issue from the other tenants, they had to deal with that through the Residential Tenancy Branch which takes time however those tenants were eventually evicted following the proper legal channels.
- With regards to the plumbing issue, when the tenant contacted them about the plumbing problem they informed her that it would be about two hours before they could contact the plumber and they do not believe that this is an unreasonable delay. The plumber came the very same day and the work was completed by the following day.
- With regards to the damage to ceiling, they did not wait until giving Notice to End Tenancy before planning the repair of that ceiling and in fact the planning had been ongoing. The tenant had stated she would monitor the ceiling to see if it was staying dry. They did not want to complete the repair if there was still water leaking in.

Analysis

It is my finding that the tenant has shown that the landlords did not complete repairs in a timely manner and as a result she did suffer some inconvenience.

The landlords have argued that the tenant did not give them a deadline to do repairs, however once landlords are informed of the need of repairs it is their responsibility to ensure that those repairs are done in a timely manner and in this case there were certainly problems that were not rectified within a timely manner. The main issues being the refrigerator, and the leaking ceiling.

The tenant has also suffered some loss of use and enjoyment due to problems with other tenants in the rental property; however it is my finding that this loss of use and enjoyment was not the result of any negligence on the part of the landlords, as the landlords did have to first determine whether or not the complaints were justified, and then had to follow the proper legal steps to evict these tenants.

Although as stated above the tenant did suffer some inconvenience, I am not convinced that the tenant suffered a substantial loss of use and enjoyment of the rental unit and therefore I will only allow a small portion of the amount claimed for loss of use and enjoyment.

It is my decision that I will allow a rent reduction of \$25.00 per month for loss of use and enjoyment for the months of November 2009 through October 2011. I will not allow any reduction of use for loss of use and enjoyment from November 2011 on, because the tenant is refusing to allow any further repairs to the rental unit.

I deny the request for lost wages; because it is my finding that the landlord's dealt with the plumbing issue within a reasonable timeframe.

I also allow recovery of the filing fee.

Therefore the total amount of the claim that I have allowed is as follows:

\$25.00 X 24 months	\$600.00
Filing fee	\$50.00
Total	\$650.00

Conclusion

I have allowed \$650.00 of the tenants claim, however the tenant has already deducted \$200.00 from her August 2011 rent, and therefore I issue an order for the landlords to pay \$450.00 to the tenant.

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 29, 2011.

Residential Tenancy Branch