



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, PSF, OLC, MNR, RR, FF

Introduction

This hearing dealt with an application by the Tenant for an order for the cost of emergency repairs, an order for the Landlord to make emergency repairs or repairs, provide services or facilities required by law, comply with the Act, regulation or tenancy agreement, and an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided and for recovery of the filing fee.

The Landlord and Tenant attended the hearing, gave affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and make submissions to me.

Preliminary Matter(s)

At the hearing the parties agreed to settle a number of issues, with the exception of the \$285.00 claimed by the Tenant for the removal of the Landlord's garbage and refuse from the property and rental unit in April 2011 and the filing fee.

Settlement agreement with orders

During the course of the hearing, the Tenant and Landlord reached an agreement, pursuant to section 63 of the Act, to settle the remaining issues raised in the Tenant's Application on the following conditions:

The Landlord and Tenant agreed to the following orders:

1. I order the Landlord to replace the three window sets double glazed in three frames immediately.
2. I order the Landlord to remove any garbage, furniture, or other items from the crawl space of the rental unit immediately.
3. I order the Landlord to get pest control and disinfecting of the crawl space done after the items are removed from the crawl space.

4. I order the Landlord to get the furnace to be inspected by a professional to determine any work that needs to be done, and if the professional determines work needs to be done, I order the Landlord to carry this out immediately.
5. I order the Landlord to inspect the roof and replace any missing roof tiles immediately.
6. I order the Landlord to repair and re-secure the sunroom door immediately.
7. I order the Landlord to fix the two toilets so that they work without running constantly within a reasonable period of time.
8. I order the Landlord to reattach the closet door in the entry way of the rental unit within a reasonable period of time.
9. I order the Landlord to repair or remove the sliding door in the ensuite of the rental unit within a reasonable period of time.

The Landlord and Tenant agree that the Tenant may dispose of the Landlord's fridge at no cost to the Landlord. The Landlord and Tenant agree that the Tenant may use her own fridge in the rental unit.

The Landlord and Tenant agree that the Tenant has leave to apply for a monetary claim if the Landlord fails to comply with the orders as required.

For any further issues with the rental unit the parties are advised to put their issues in writing to one another before filing an Application for dispute resolution.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order for removal of the Landlord's garbage and refuse from the property and rental unit in April 2011 and the filing fee?

Background and Evidence

The parties agree that the tenancy began on February 10, 2011 and that the monthly rent is \$1400.00 due on the 10th of each month. The parties agree that the Tenant paid a pet damage deposit of \$700.00 at the beginning of the tenancy. The parties have a written tenancy agreement, however, this was not submitted into evidence for the hearing.

The Landlord stated that early in the tenancy the Tenant had complained about refuse and garbage left on the property. The Landlord stated that he allowed the Tenant to

remove this from the property and offered to pay her \$100.00. The Landlord confirmed that he has not paid the Tenant at this time.

The Tenant stated that the Landlord left refuse and garbage piled up on the property and the rental unit that she noticed and complained to him about. The Tenant stated that the Landlord authorized her to remove it, however it cost her more than \$100.00. The Tenant submitted receipts into evidence that state she paid a total of \$285.00 on April 08, 2011 to two different contractors to have the items removed. The Tenant stated that the contractors were men with trucks who were able to fill truckloads of the refuse and garbage and take it the dump. The Tenant feels the fees she was charged were reasonable and that the Landlord authorized her to remove the items as he had done nothing to remove the items since she moved in. The Tenant provided no other receipts for any costs incurred in relation to her tenancy. The Tenant stated that she has since discovered other refuse exists in the crawl space of the rental unit, however this has not been removed by the Landlord at this time, despite her requests.

The Tenant requests a monetary order for \$285.00 for the costs of removing the Landlord's garbage and refuse from the rental unit property.

The Tenant has also applied for reimbursement of the \$50.00 filing fee for this proceeding.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Landlord and tenant obligations to repair and maintain

32 (1) 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.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

I find it reasonable that the Tenant expected the rental property and rental unit to be free of debris, garbage, or items belonging to the Landlord or former tenants. I find the costs incurred by the Tenant to remove the garbage to be reasonable, and that the Landlord's expectation that it would only be \$100.00 to be unproven. I accept the receipts provided by the Tenant in the absence of any evidence from the Landlord to disprove them. I find that the Tenant is entitled to a monetary order for \$285.00 for the cost of the April 08, 2011 removals of garbage and debris from the property.

As the Tenant has succeeded in her Application, I also find that she is entitled to \$50.00 for the filing fee she paid for the Application. As a result the total amount owing to the Tenant is \$335.00.

I order the Tenant to deduct \$335.00 from her next month's rent in full satisfaction of her claim. The Tenant must still pay the balance of the rent after deducting the \$335.00 on the date rent is required by the tenancy agreement and the Act.

Conclusion

The orders to the Landlord as set out in the settlement agreement pursuant to the Act are as follows:

1. I order the Landlord to replace the three window sets double glazed in three frames immediately.
2. I order the Landlord to remove any garbage, furniture, or other items from the crawl space of the rental unit immediately.
3. I order the Landlord to get pest control and disinfecting of the crawl space done after the items are removed from the crawl space.
4. I order the Landlord to get the furnace to be inspected by a professional to determine any work that needs to be done, and if the professional determines work needs to be done, I order the Landlord to carry this out immediately.
5. I order the Landlord to inspect the roof and replace any missing roof tiles immediately.
6. I order the Landlord to repair and re-secure the sunroom door immediately.

7. I order the Landlord to fix the two toilets so that they work without running constantly within a reasonable period of time.
8. I order the Landlord to reattach the closet door in the entry way of the rental unit within a reasonable period of time.
9. I order the Landlord to repair or remove the sliding door in the ensuite of the rental unit within a reasonable period of time.

I grant the Tenant leave to apply for a monetary claim if the Landlord fails to comply with the orders as required.

I find that the Tenant may dispose of the Landlord's fridge at no cost to the Landlord, and the Tenant may use her own fridge in the rental unit.

I find that the Tenant is entitled to **\$335.00** as compensation for removal of garbage and refuse from the rental property and I order the Tenant to deduct \$335.00 from her next month's rent.

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: December 22, 2011

Residential Tenancy Branch