



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking monetary compensation under the Act or tenancy agreement, and to recover the filing fee for the Application.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Tenant entitled to monetary compensation from the Landlord?

Background and Evidence

This tenancy began on August 1, 2011, with the parties entering into a written tenancy agreement. The monthly rent was set at \$2,100.00, payable on the first day of the month, and the Tenant paid the Landlord a security deposit of \$1,050.00 on July 7, 2011.

In the latter part of 2011, the Landlord had plumbers and other workers renovating the plumbing in the residential property where the rental unit is located.

The Tenant testified that work started in the rental unit on October 31, 2011, when portions of the drywall were removed to expose the plumbing. According to the Tenant, workers continued to come into the rental unit until December 1, 2011.

During this period the Tenant kept a daily record of work being performed in the rental unit. The Tenant was often home during the day when the work occurred, although the workers did not enter the unit every day.

The Tenant testified and submitted evidence about what work occurred in the rental unit during this time. He had to remove and store items from the kitchen and bathroom cupboards in other places in the rental unit for several weeks.

The Tenant testified he was often unable to use the washroom due to disconnected pipes or because workers were in that portion of the rental unit. The bathroom sink was disconnected for seven days and the Tenant had to use a bucket to drain it manually.

The Tenant testified he was unable to use the shower for six days, first due to drying grout and then because the shower rod was not installed. The dishwasher did not work for two weeks. The Tenant was also concerned because on several occasions he found the workers had left his rental unit doors unlocked or open after they left. Lastly, the Tenant testified he had his sleep interrupted on several occasions by the work starting at 8:00 a.m.

The Tenant claims he had no alternate facilities to use, he suffered a loss of use of portions of the rental unit and a loss of quiet enjoyment and requests a monetary order for a third of a months' rent, in the amount of \$700.00.

In reply, the Landlord submits that they informed the Tenant and other occupants of the building in advance that this work was going to proceed. The Landlord submits that maintenance work at the rental unit was required and that the Landlord did as much as possible to reduce the disruption to the occupants of the building. The Landlord submits it is required to perform the work under the Act.

The Landlord submits that the contractors provided advance notice to the occupants of water cut offs and the work to be done in each rental unit. The Landlord submits that re-piping an entire building is maintenance of a significant magnitude and although there was a possibility that all the renters would have to be evicted to do the work, the Landlord made every effort to minimize inconvenience and disruption to the Tenant.

The Landlord also pointed out the benefits of the re-piping to the Tenant, such as less problems with burst pipes in the building and the rental unit now has a new bathtub and tiled shower surround.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant has experienced a loss of use of portions of the rental unit and a loss of quiet enjoyment.

Under the Act, the Landlord is required to provide and maintain the rental unit. In the normal course minor or temporary disturbances to renters while performing such maintenance is not compensable. However, I find that in this instance these were not minor or temporary disturbances. I find the daily log of work performed in the rental unit as recorded by the Tenant to be an accurate and detailed account of the work in the rental unit.

I find the work prevented the Tenant from using his washroom and showering facilities on several occasions and impacted on portions of the rental unit for a period of approximately one month.

Policy Guideline #6, which explains the right to quiet enjoyment, sets this out as follows:

“Temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment.

It is necessary to balance the tenant’s right to quiet enjoyment with the landlord’s right and responsibility to maintain the premises, however a tenant may be entitled to reimbursement for loss of use of a portion of the property even if the landlord has made every effort to minimize disruption to the tenant in making repairs or completing renovations.”

It should be noted that the Landlord has not been negligent here. I find the Landlord made reasonable efforts to minimize the disruption to the Tenant. In fact, both parties here showed a commendable level of respect for each other throughout this dispute and in the hearing. Furthermore, the Tenant himself commended the workers who were entering the suite as being courteous and polite.

Nonetheless, I find the Tenant suffered a loss of use of portions of the rental unit and a loss of quiet enjoyment of the rental unit for approximately one month. I find the Tenant’s request for \$700.00 in compensation to be reasonable and appropriate. I grant the Tenant a monetary order in the amount of \$750.00, comprised of \$700.00 for his losses and \$50.00 for the filing fee for the Application.

I order that the Tenant may deduct the sum of \$750.00 from one month of rent.

This decision is final and binding on the parties, except as provided under the Act, and 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: April 13, 2012.

Residential Tenancy Branch