



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP, RR

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation - Section 67;
2. An Order compelling the Landlord to comply with the Act - Section 62;
3. An Order compelling the Landlord to make repairs to the unit – Section 32;
and
4. An Order allowing the Tenant to reduce rent for services/facilities agreed upon but not provided – Section 65;

I accept the Tenant’s evidence that the Landlord was personally served with the application for dispute resolution and notice of hearing on July 25, 2012 in accordance with Section 89 of the Act. The Landlord did not participate in the conference call hearing. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Is the Landlord required to comply with the Act?

Is the Landlord required to make repairs to the unit?

Is the Tenant entitled to reduce the rent?

Background and Evidence

The tenancy began on July 9, 2011. Rent and services in the amount of \$2,600.00 is payable in advance on the first day of each month. At the outset of the tenancy, the Landlord collected a security deposit from the Tenant in the amount of \$500.00.

The Tenant's unit is on the second floor and has a balcony. At the time of the Tenant entering into a tenancy agreement for the unit, the Landlord did not accept tenants with wheelchairs however this was changed, the Tenant was accepted with his wheelchair and there are now a few tenants with wheelchairs in the building.

The Tenant was instructed by the Landlord that in case of fire the Tenant is not to leave the unit but to wait inside until rescued. The Tenant has been informed by a friend who is a retired fire captain that such a situation is a fire safety hazard and that the Tenant should exit the unit to his balcony to wait for rescue. The balcony floor however requires raising to enable the Tenant to exit from the unit onto the balcony with the wheelchair. The Tenant provided the Landlord with plans and drawings to construct a raised floor on the balcony. The raised balcony floor has been designed to be removable should the Tenant vacate the unit in the future. The Tenant has obtained the services of a contractor to put the floor in place at no charge for the labour. Section 7.1 of the tenancy agreement provides that the Landlord must make the unit suitable for occupation by a reasonable tenant. The Tenant requests an order allowing the Tenant to construct the raised balcony floor and an order that the Landlord reimburse the Tenant for the cost of supplies in the amount of \$1,500.00. The Tenant clarified at the Hearing that these are the only orders being sought.

Analysis

Given the tenancy agreement requiring the Landlord to make the unit suitable for occupation by a reasonable tenant and based upon the undisputed evidence of the Tenant that the unit requires access to the balcony for safety reasons due to the Tenant's use of a wheelchair, I find that the Landlord has failed to make the unit suitable by not enabling the Tenant's access to the balcony. As a result I find that the Tenant is

entitled to install the removable floor on the balcony and that the Landlord is obligated to reimburse the costs claimed by the Tenant up to the amount of \$1,500.00. I order the Tenant to deduct \$1,500.00 from the next month's rent payable following the completion of the balcony floor.

Conclusion

The Tenant is entitled to install a raised floor on the balcony of the unit.

I Order the Tenant to deduct \$1,500.00 from the month's rent following the completion of the balcony floor.

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: August 21, 2012.

Residential Tenancy Branch