



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, ERP, FF, MNDC, O, RP, RR

Introduction

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

I also gave the applicant the opportunity to testify at the hearing.

The respondent was served with notice of the hearing by the Residential Tenancy Branch; however the respondent did not join the conference call that was set up for the hearing.

All testimony was taken under affirmation.

Issue(s) to be Decided

This is an application to dispute an additional rent increase, a request for a monetary order in the amount of \$7,200.00, a request for an order to make emergency repairs, a request to reduce the rent for repairs services or facilities agreed upon but not provided, and a request for recovery of the \$100.00 filing fee.

Background and Evidence

The applicant testified that:

- It is their belief that the landlord has raised the rent illegally, because in the tenancy agreement it states that the rent will be \$4000.00 per month for the months of May through October of 2012, and then it increases \$1000.00 per month to \$5,000.00 for the months of November 2012 through April 2013, and then it increases a further \$1000.00 per month for the months of May 2013 through April 2014.
- These rent increases are well outside the amount allowed under the Residential Tenancy Act, and are not even within the proper one year time frame.
- They are therefore requesting an order that the rent remain at \$4000.00 per month and that any overpayment be repaid by the landlord.

- They are also asking for a \$1000.00 per month rent reduction starting from the very beginning of the tenancy, because they believe that 25% of the house is unusable due to the poor condition.
- They are also asking for the return of rent for the time period of April 27 to the end of April 2012, because at that time the rental unit was not habitable.
- Further due to the poor condition of the rental unit when they moved in they had to do excessive cleaning, rubbish removal, and had to replace numerous light bulbs, and they are therefore requesting compensation as a result.
- They also had to pay for repair of the furnace boiler and they'd like to be reimbursed for the cost of that repair.

Therefore the total amount of monetary compensation they are requesting is as follows:

Return of all rent paid for April 2012	\$526.00
Return of one quarter of all rent paid	\$7,000.00
Return of illegal rent increase paid	\$1000.00
Cleaning costs	\$600.00
Rubbish removal	\$200.00
Light bulbs	\$400.00
Furnace repair	\$127.12
Filing fee	\$100.00
Total	\$9,953.12

- There are many repairs needed to the rental unit however the priority urgent repairs are as follows:
 1. The main house furnace including thermostats, the zone valves and radiators need to be repaired or replaced.
 2. It has dangerous electric wiring, which trips fuses and prohibits use of certain areas, and this needs to be repaired.
 3. The glass roof leaks and has dangerous broken glass and this needs to be repaired.
 4. The pool water heater needs to be repaired.
 5. The pool room furnace needs to be repaired.
- There are also other repairs that are not urgent but are required to be done as follows:
 1. New locks for all outside doors.
 2. Replacement of missing fireplace doors.
 3. Replacement or repair of broken double glazing units.
 4. Malfunctioning bathroom extractor fans repaired or replaced.
 5. Broken toilet seats and incorrect size toilet seat replaced.
 6. Broken security railings on decking fixed.

7. Unfixed bathroom fittings appropriately secured.
8. Lower floor bathroom shower, sink faucet and cistern to be repaired.
9. Upper floor bathroom sink continual blockage and poor drainage and low water pressure requires a plumber's inspection and repair to resolve these issues.
10. Repair of broken and dangerous wooden steps to side of house allowing access to rear.
11. Smoke alarm repair.
12. Master bedroom blind repair or replacement.
13. The holes in walls on main floor bathroom repaired.
14. Landing missing blind replacement.
15. Storeroom broken locking door repair.

Analysis

Dispute a rent increase

After reviewing the evidence provided for this hearing is my finding that there is no illegal rent increase.

The applicants have provided copies of e-mail exchanges between themselves and the landlord's agent, and it's very clear from those e-mails that the tenants requested and negotiated a rent reduction in exchange for doing work on the rental unit. The applicants in their e-mails estimated that they would be doing between \$10,000 and \$20,000 worth of improvements to the rental unit and property.

In light of this e-mail exchange it's my finding that rent for this unit is set at \$6,000.00 per month, however for the first six months of the tenancy the tenants are getting a \$2000.00 per month rent reduction, and for the second six months of the tenancy the tenants are getting a \$1000.00 rent reduction for a total of \$18,000.00.

I therefore will not allow the request for return of the \$1000.00 paid to bring the rent to \$5,000.00 for the month of November 2012.

Return of rent for April, and return of one quarter of all rent paid

I also deny the applicants request for return of rent paid for the month of April, and for return of one quarter of all rent paid.

In the e-mail negotiations prior to entering in the tenancy agreement, the applicants state that they know the house is not in great repair and that they would take the house as is, other than the problem with the boiler.

The applicants in the negotiations further state that they will clear up rubbish and garbage and do numerous repairs, maintaining the house, and paying for any repairs required under \$500.00. They also state that these upgrades would all be done within six months of moving in.

As stated above is my finding that these negotiations resulted in a rent reduction to the tenants totaling \$18,000.00, and I am not willing to order a further reduction when this \$18,000.00 reduction was negotiated on the premise that the applicants would be doing repairs in the \$10,000.00 to \$20,000.00 range.

Further the applicants are requesting the rent reduction because of the poor condition of the rental unit, however in their negotiations they stated that all upgrades would be completed within approximately 6 months. That obviously has not happened and therefore any loss of use is a result of the applicant's failure to complete the upgrades upon which the rent reduction was negotiated.

Cleaning costs, rubbish removal, and light bulbs

I also deny the applicant's claim for cleaning costs, rubbish removal, and light bulbs because it is my finding that the applicants agreed to take the rental unit has is and rectify any shortcomings. Again this is why they were given an \$18,000.00 rent reduction.

Furnace repair cost

I will allow the applicants claim for the \$127.12 furnace repair cost; because the applicants made it clear in their negotiations to the landlords would be responsible for repairing the furnace.

Request for urgent repairs

Is my finding that I will issue an order for the landlord to have a licensed qualified repair person do an assessment of the need for repairs to the heating system in the rental property and ensure that any required repairs are done, because as stated previously

the applicants made it clear in the negotiations that the landlords must be responsible for the repair of the heating system.

I will also issue an order for the landlords to have a licensed qualified electrician do an assessment of the need for repairs to the wiring in the rental unit, and if the cost of any needed repairs exceeds \$500.00, the landlord will ensure that those repairs are done.

I will also issue an order for the landlords to have a qualified repair person do an assessment of the need for repairs to the glass roof, and if the cost of any needed repairs exceeds \$500.00, the landlord will ensure that those repairs are done.

I will also issue an order for the landlord to have a qualified person assess the need for repairs to both the pool water heater, and the pool room heating furnace, and if the cost of any needed repairs exceeds \$500.00 the landlord will ensure that those repairs are done.

It is my finding that the landlord is only liable for repairs that exceed \$500.00, because in the negotiations to get the rent reduction, the applicant stated that they would maintain the house and pay for any repairs required under \$500.00.

Request for other repairs

It's my decision that I will not order any of the other requested repairs, because it's my finding that the applicants negotiated an \$18,000.00 rent reduction on the promise that they would be doing these upgrades/repairs that they are now requesting be done by the landlords.

Filing fee

As I have only allowed a small portion of the applicants claim, it is my decision that the applicants must bear the cost of the \$100.00 filing fee.

Conclusion

As stated above it's my finding that there has been no illegal rent increase.

I have allowed \$127.12 of the applicants claim and therefore the applicants may deduct \$127.12 from future rent payable to the landlords. The remainder of the applicant's monetary claim is dismissed without leave to reapply.

I have issued repair orders which must be served on the respondent.

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 26, 2012.

Residential Tenancy Branch

