



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlords to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order to the landlords to make repairs to the rental unit pursuant to section 33.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to discuss this dispute with one another. The male landlord (the landlord) represented the landlords throughout the hearing, although the female landlord joined the teleconference hearing near the end of this hearing. The landlord confirmed that the tenants handed the landlords a copy of the tenants' dispute resolution hearing package on December 14, 2012. I am satisfied that the tenants served this package and that the parties exchanged written evidence with one another in advance of this hearing.

Preliminary Matter- Landlords' Request for an Adjournment

The landlord submitted a late written request for an adjournment of this hearing, received by the Residential Tenancy Branch (the RTB) on January 11, 2013. The landlord testified that he tried to hand this to the tenants but as they were not present when he went to the rental premises, he attempted to advise them of the adjournment request by way of a text message. The landlord requested this adjournment because his elderly mother has been very ill, a situation that is also affecting his elderly father. He said that he has not had time to examine the tenants' concerns carefully and needed more time to prepare for this hearing.

Tenant EHB (the tenant) testified that the tenants did not realize that the landlords were seeking an adjournment of this matter. He objected to the landlord's request for an adjournment as the tenants maintain that they have been trying to have the problems associated with this tenancy addressed for many months to no avail. They are concerned about the health and safety implications of delaying a resolution of this matter further.

Rule 6 of the RTB's Rules of Procedure establishes how late requests for a rescheduling and adjournment of dispute resolution proceedings are handled. Since the landlord did not request an adjournment until a few days before this hearing and the tenants were interested in proceeding with the hearing, the following portion of Rule 6.2 applies:

...the dispute resolution proceeding must commence at the scheduled time and the party requesting the adjournment can ask the Arbitrator to reschedule the dispute resolution proceeding.

In that event, the party seeking the adjournment or an agent for that party needs to attend the hearing and describe the circumstances that prevent him or her from proceeding with the hearing.

In considering this request for an adjournment, I have applied the criteria established in Rule 6.4 of the Rules of Procedure. I note that the landlords received the tenants' application for dispute resolution over one month before the date of this hearing. Until the RTB received the landlords' request for an adjournment six days before this hearing, the landlords did not submit any evidence, nor did they request an adjournment.

Given the tenants' objection to the landlord's requested adjournment and the tenant's assertion that the tenants would be adversely affected by further delay in attending to their application, I advised the parties present at the beginning of this hearing of my decision that the landlords had not met the criteria established for granting an adjournment of this hearing. For these reasons, I proceeded with this hearing.

Issues(s) to be Decided

Are the tenants entitled to a monetary award for the loss in value of their tenancy or for losses they have incurred during this tenancy? Should any orders be issued to the landlords?

Background and Evidence

This periodic tenancy commenced by way of an oral agreement between the parties whereby the tenants took possession of the landlords' rental home by September 1, 2012. The parties agreed that the monthly rent is set at \$700.00, payable in advance on the first of each month. The tenants are responsible for the utilities, the chief utility being hydro, as the home is heated by an electric furnace. The landlord does not hold a security deposit for this tenancy.

The tenants' application for a monetary award of \$1,230.00 was for 120 hours of work they claim to have undertaken on the rental premises on the landlords' behalf. They arrived at this compensation figure by charging minimum wage (i.e., \$10.25 per hour) for their work. The tenants also requested the issuance of a series of orders with respect to the health and safety of the premises and asked for a reduction in their utility charges as they believe that these charges have increased significantly as a result of the landlords' failure to repair the premises in a timely fashion and to implement the commitments the landlords made that attracted the tenants to this rental home.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. During the hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Both parties in attendance at this hearing agreed to the following final and binding resolution of all issues in dispute in this tenancy under the following terms:

1. The landlords committed to replace the shed on this rental property by March 31, 2013.
2. Both parties agreed that if the landlords did not complete the replacement of the shed on this rental property by March 31, 2013, the tenants will be allowed to reduce their rent by \$25.00 per month commencing on April 1, 2013, until such time as the landlords have completed the replacement of the shed.
3. The landlords committed to grade the rear yard of this rental home, fill in the low spots in that yard and seed the rear yard by May 31, 2013.
4. The landlords committed to retain a certified electrician of the landlords' choosing to inspect and where needed install grounded outlets throughout the rental unit by February 28, 2013.
5. Both parties agreed that if the landlords did not complete the electrical work noted in Item #4 of this agreement by February 28, 2013, the tenants will be allowed to reduce their rent by \$50.00 per month commencing on March 1, 2013, until such time as the landlords have completed this work.
6. The landlords agreed to replace all gutters and downspouts on the rental premises by March 31, 2013.
7. Both parties agreed that if the landlords' replacement of all gutters and downspouts on the rental premises is not completed by March 31, 2013, the tenants will be allowed to reduce their rent by \$25.00 per month commencing on April 1, 2013, until the landlords have completed this work.

8. The landlords committed to consult with the necessary experts to seek advice on their options for the basement area of this rental property by March 31, 2013, and that the landlords would report back to the tenants regarding the landlords' decision on how best to proceed to resolve the drainage problems in the basement area of this rental property by March 31, 2013.
9. The landlords further committed to complete the drainage remediation work on this rental property by July 31, 2013.
10. Both parties agreed that if the landlords have not completed the drainage remediation work on this rental property by July 31, 2013, the tenants will be allowed to reduce their rent by \$50.00 per month commencing on August 1, 2013, until such time as this work has been completed by the landlords.
11. The landlords agreed to conduct repairs to properly seal open areas between the ceiling tiles from the lower level of this rental property to the stairwell by February 28, 2013.
12. The landlords committed to make available to the tenants a functioning dishwasher, either portable or installed, by February 28, 2013.
13. The tenants agreed to withdraw their application for a monetary Order and agreed to not pursue through any mechanism whatsoever a monetary award of any type for work that they conducted on the rental property during this tenancy.
14. Both parties agreed to abide by the terms of the *Act* in dealing with any issues requiring repairs as they arise during the remainder of this tenancy.
15. Both parties agreed that this settlement agreement constituted a final and binding resolution of all issues currently in dispute at this time arising out of this tenancy.

I also note that the female landlord confirmed that she had given the male landlord authority to act on her behalf on this matter and agreed to the male landlord's resolution of this dispute on the basis of the terms outlined in the above settlement agreement.

Conclusion

In accordance with the above settlement agreement, I order the landlords to conduct repairs to properly seal open areas between the ceiling tiles from the lower level of this rental property to the stairwell by February 28, 2013. I also order the landlords to make available to the tenants a functioning dishwasher, either portable or installed, by February 28, 2013. I order the landlords to grade the rear yard of this rental home, fill in the low spots in that yard and seed the rear yard by May 31, 2013.

In order to perfect the terms of the parties' settlement agreement, I issue the following orders to take effect only if the landlords do not abide by the terms of this agreement:

I order that in the event that the landlords do not complete the replacement of the shed on this rental property by March 31, 2013, the tenants will be allowed to reduce their rent by \$25.00 per month commencing on April 1, 2013, until such time as the landlords have completed the replacement of the shed.

I order that in the event that the landlords do not complete the installation of grounded outlets throughout the rental unit by February 28, 2013, the tenants will be allowed to reduce their rent by \$50.00 per month commencing on March 1, 2013, until such time as the landlords have completed this work.

I order that in the event that the landlords do not complete the replacement of all gutters and downspouts on the rental premises by March 31, 2013, the tenants will be allowed to reduce their rent by \$25.00 per month commencing on April 1, 2013, until such time as the landlords have completed the replacement of all gutters and downspouts on the rental premises.

I order that in the event that the landlords have not completed the drainage remediation work on this rental property by July 31, 2013, the tenants will be allowed to reduce their rent by \$50.00 per month commencing on August 1, 2013, until such time as the landlords have completed this drainage remediation work.

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: January 18, 2013

Residential Tenancy Branch

