



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with an application by the tenant for monetary compensation for damage or loss under the Act, regulation or tenancy agreement.

Despite having been personally served with the application for dispute resolution and notice of hearing on November 28, 2012, the landlord did not participate in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began in December 2009 and ended on December 2, 2012. The rental unit was a four-bedroom family dwelling, with monthly rent of \$500 for the duration of the tenancy.

The tenant stated that in 2010 the unit began to develop black mould problems. The tenant made the landlord aware of the problem, but nothing was done about it. The tenant submitted photographs of the rental unit that show significant mould on and in the walls of the unit. Two of the tenant's beds were destroyed by the mould, other furniture that was exposed to the mould is not showing signs of rot, and their clothing has a musty smell.

The tenant further stated that in July 2012 they began experiencing plumbing problems. The tenant informed the landlord and the landlord had the septic pumped three times, but even after that, raw sewage started coming up into the bath tubs.

The landlord offered the tenant another rental unit, which had two bedrooms, but it was not suitable for the tenant and her three teenage children. On November 28, 2012 the landlord sent the tenant a letter stating that the tenancy had been frustrated, and the tenant must therefore immediately vacate the rental unit. The tenant acted on the letter and moved out of the rental unit on December 2, 2012. The tenant stated that she had to incur expenses for moving and emergency storage, and had to pay friends to stay at their houses.

The tenant has claimed \$4400 in monetary compensation for damage to her property by the mould and for the costs incurred for being forced to vacate the rental unit.

Analysis

I accept the tenant's evidence that there was extensive mould in the rental unit. However, the tenant ought to have mitigated her loss by making an application during the tenancy for an order that the landlord do repairs or emergency repairs. I therefore find that the tenant is not entitled to monetary compensation for damage to her property due to mould.

Based on the evidence, particularly the landlord's letter of November 28, 2012, I find that the landlord ended the tenancy contrary to the Act. Based on the undisputed evidence of the tenant, the landlord claimed that the tenancy was frustrated rather than either conduct necessary repairs or serve the tenant with a two-month notice to end tenancy for renovations. I find that the tenant is entitled to some compensation as a result.

The tenant did not provide a breakdown of her claim for mould damage as opposed to compensation for moving; nor did she provide receipts or specific amounts for her costs related to moving. If the landlord had properly served the tenant with a two-month notice, the tenant would have been entitled to compensation equivalent to one month's rent. In the absence of other evidence, I find that this amount, \$500, is appropriate compensation for the landlord's act of ending of the tenancy contrary to the Act.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$500. This order may be filed in the Small Claims Court and enforced as an order of that Court.

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: March 5, 2013

Residential Tenancy Branch

