



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR OPR CNQ ERP LRE MT RP RR

Introduction:

This hearing dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47;
- b) To cancel a notice to end tenancy for unpaid rent pursuant to section 46;
- c) To allow the tenant more time to dispute the notices;
- d) To cancel a notice to end tenancy for not qualifying for subsidized housing;
- e) That the landlord do necessary repairs and to order a rent rebate for repairs not done and/or facilities not provided; and
- f) To limit the landlord's entry into the rental unit.

Service:

The Notice to End Tenancy for unpaid rent is dated April 5 to be effective April 15, 2013 and it was served personally. The tenant gave evidence that they served the Application for Dispute Resolution by registered mail and the landlord agreed she received it. I find the documents were legally served for the purposes of this hearing.

Preliminary:

The tenants' application was amended on mutual consent to show her first and last names in the correct order.

Issue(s) to be Decided:

Although the tenant disputed a number of notices on her application, it became clear in the hearing that they were disputing the notice to end tenancy for unpaid rent and requesting rent reduction for repairs not done or facilities not provided. The tenants have already moved so an Order of Possession is not necessary. The remaining issues are whether the tenant has proved on the balance of probabilities that they are entitled to a rent rebate for loss of promised facilities and for repairs not completed?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in November 2012, rent was \$1900 a month and a security deposit of \$950 was paid on October 31, 2012. The parties agreed that rent was not paid for April 2013 and the tenants vacated on April 30, 2013 and supplied their forwarding address to the landlord in writing.

The tenant claims a rent rebate for they did not have the use of the garage as many items were left in it and there was a significant amount of garbage left around the garage and in the basement. The basement was difficult to use as the tenant had to store garbage from a previous tenant in part of it and it leaked periodically so she had to walk through puddles to the laundry facilities in the basement. She said she was also not supplied the promised blinds for the rooms. The male tenant said he had to move his vehicles to store in another location. The landlord's witness said there was some garbage in the garage left by a previous tenant, the leakage in the basement occurred only periodically and the garbage in the basement was left by a previous tenant. He said that during the condition inspection at move-in, the garbage was not noticed as it was covered in snow.

The landlord said there are no repairs noted as necessary in the move-in report, that there were new blinds in boxes but she did not realize they were the wrong size until March 2013 when the tenant made her complaints known to her for the first time. She said she had the leakage problem inspected and she did some painting.

Included with the evidence is the lease, some photographs, the condition inspection report, written statements of the parties and a notice to end tenancy dated March 9, 2013 by the tenant to be effective April 30, 2013.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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Analysis:

I find the tenancy is at an end as the tenant has served a notice to end the tenancy and vacated the property. I find they did not pay rent for April 2013 in the amount of \$1900.

I find the weight of the evidence is that the tenants signed a tenancy agreement to rent a home and garage and that they were unable to use parts of the home and the garage, mostly due to garbage left by a former tenant. Regardless of fault or whether it was noted on the move-in report, the weight of the evidence is that the tenants lost the use

of a double garage and a portion of the basement for the whole six months of their tenancy. I find them entitled to a rebate of rent of \$150 a month for the loss of the garage and a portion of the basement plus the inconvenience of trying to access laundry facilities through water. The lack of blinds or promise of new blinds is not noted on the move-in report and not addressed until March 2013 so no further rebate is granted

Conclusion:

I find the tenant entitled to a rent rebate of \$900 (6x\$150) for the reasons stated above. This leaves a balance of rent owing for April 2013 of \$1000.

As advised in the hearing, the landlord must bring her own application to claim for monies owing and if she wishes to retain the security deposit bring an application under section 38.

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: May 02, 2013

Residential Tenancy Branch