



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened in response to an application filed by the tenants seeking a monetary order for compensation for damage or loss in the amount of \$17,963.32 and recovery of the filing fee paid for this application.

Both parties appeared at the hearing of this matter and gave evidence under oath.

The landlord noted the incorrect spelling of her first name in the application and this has been amended.

Issue(s) to be Decided

Have the tenants met the burden of proving their claim?

Background and Evidence

This tenancy began April 1, 2011 and ended October 31, 2012. During the tenancy rent was fixed at \$2,000.00 per month payable in advance on the first of each month plus a share of the utilities.

The tenants say that prior to the start of the tenancy they entered into a verbal agreement with the landlord to renovate the rental unit to accommodate the needs of their family. The tenants say they are a family of 5, a married couple, the husband's wheel chair bound brother and the husband's parents. The rental unit did not have enough room for all of them and also had to be renovated to accommodate the brother's wheelchair. Some of the rental building was unfinished. The tenants also say they moved in only to discover there was no heat so they had to make repairs in this regard as well.

The tenants say that they are contractors and the landlord took advantage of their knowledge and skill. The tenants say the landlord attended the home many times during the renovations and cried with happiness when she saw what the tenants had done.

The tenants submit that they would never have agreed to move into the rental unit if the landlord would not agree to pay for the work that needed to be done to renovate the home to accommodate their family. The tenants say that in addition to agreeing to pay for the renovations the tenants required, the landlord requested additional work. The tenants say the landlord agreed to reimburse them in full for labor and materials. The tenants say a bill was submitted to the landlord but as of the date of this hearing she has only paid \$500.00 towards the work done.

The tenants say that over the course of the tenancy and renovations the landlord stated many times that she intended to pay them in full for their work. The tenants say the landlord asked for receipts so she could write them off on her taxes but the tenants refused to provide them to the landlord until they received reimbursement. The tenants say the landlord hurried their work when she needed to renew the mortgage because an appraiser was going to attend to reappraise the home.

The tenants say they eventually moved out because the landlord said she would only pay them once they vacated but she has still not paid them.

The tenants seek the following sums:

Materials - March 15, 2011 to February 29, 2012	\$6,088.22
Labour costs - March 15, 2011 to February 29, 2012	12,375.00
Less payment received	-500.00
Total	\$17,963.22

The landlord denies the tenants allegations. She says there was an agreement for the tenants to renovate one room to accommodate their family's needs and nothing more. The landlord says she did agree to pay for these renovations and she has done so.

The landlord testified that the rental unit was a 3,000 square foot upper portion of a single family home with 2 bedrooms. The landlord's daughter resided in the basement suite of the home. The landlord says the tenants actually wanted a 4 bedroom home but there was one unfinished room in this home which the landlord agreed the tenants could finish to create 3 bedrooms. The landlord testified that the tenants agreed to obtain the

materials and supply the labour. By way of reimbursement for the work the landlord agreed to pay for all the utility costs which were to have been split between the parties. The landlord says she paid a total of \$12,500.00 in electricity and water charges during this period, \$6,000.00 or so would have been the tenants' responsibility.

The landlord says in addition to paying all electricity and water costs she paid \$4,400.00 to have hardwood floors installed and she paid for insulation to insulate one of the attic rooms that the tenants wanted to use. The landlord reimbursed the tenants \$500.00 for this.

The landlord says with respect to the heating issue that the home has radiant hot water heat through the floors and the one unfinished room needed to have the radiant heat hooked up. The landlord says the tenants were well aware of this and it was part of the renovation project for that room.

With respect to visiting the rental property the landlord says she works out of town and visited the property only 5 times during this tenancy.

Analysis

The tenants have brought this claim and bear the burden of proving it. The onus or burden of proof is on the party making the claim. When one party provides testimony/evidence of the events in one way and the other party provides an equally probable but different testimony/evidence of the events, then the party making the claim has not met the burden on a balance of probabilities and the claim fails.

There is nothing in writing with respect to what was agreed to in terms of renovations. The landlord denies agreeing to the tenants doing any renovations save to allow them to renovate the one room to turn it into a bedroom to accommodate their family's needs. The landlord's evidence, which the tenants did not dispute, was that the landlord reimbursed the tenants for the renovations by way of paying all the costs for electricity and water which were to have been split between the parties in which case the landlord paid the tenants' portion of around \$6,000.00.

Based on a balance of probabilities I find that it is more likely than not the arrangement between the parties was that is that the tenants would perform renovations and the landlord would cover their share of the utility costs in lieu of payment. This seems probable to me because it seems improbable to me that during the course of all of these renovations running from March 15, 2011 to February 29, 2012 that the tenants would not have supplied invoices for materials to the landlord or an accounting of hours spent

along with a demand for payment and/or file an Application for Dispute Resolution seeking recovery of these sums. Further, that they would vacate in October 2012 and no seek recovery of any sums until March 15, 2013. Based on a balance of probabilities I find that it is more likely than not that they did not make a demand for payment because they had in fact already been reimbursed by the landlord by way of her paying their utility costs.

Conclusion

The tenants' claim is dismissed.

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: June 10, 2013

Residential Tenancy Branch