



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Rosalinda Adry Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC, ERP, RR, RP, PSF

Introduction

This hearing dealt with an application by the tenant seeking a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, an order to have the landlord comply with the Act, an order to have the landlord conduct emergency repairs, and order to have the landlord make repairs for health or safety reasons, an order to have repairs to the unit, site or property, and an order to provide services or facilities as required by law. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, regulation or the tenancy agreement?

Background and Evidence

Both parties agree that the tenancy began on or about July 1, 2012. Rent in the amount of \$950 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$475.00.

The tenant gave the following testimony:

The tenant stated that the landlord has fixed the toilet and tub and no longer wishes to pursue that aspect of his application. The tenant stated that the building is infested by mice and rats and that it's not safe for him or his family to live there. The tenant stated that the doctors, city authorities and local government agree with him and they wouldn't lie. The tenant stated that he complained to the resident manager "two million times" but she ignored his issues. The tenant seeks a monetary award for having to deal with this in the amount of \$16650.00. The tenant stated that he should be entitled to the return to all of his rent and that's how he arrived at the number as claimed.

The landlord gave the following testimony:

The landlords' agent had two witnesses provide testimony for this hearing. The first witness is a current tenant in the building and her testimony is as follows:

That witness stated that she had noticed a mouse in her unit a week after moving in. She moved in September 1, 2013. She stated that she had notified the manager and that the issue was addressed and resolved the following day.

The landlords' agent had a pest control technician give testimony as follows:

The technician stated that he had attended the subject unit on February 5, 2013. He attended the unit with the subject tenant and the resident manager. The technician stated that he had addressed several issues with the tenant at that time and provided the subject tenant with some recommendations. The technician stated that in April 2013 the landlord had arranged for a yearly contract that entailed bi-monthly inspections, laying of bait and traps and the removal of any pests. The technician stated that the landlords would also arrange extra visits if required. The technician stated that the landlord had scheduled an appointment with him to attend the subject unit for October 10, 2013 but was cancelled as the tenant had denied access. The technician stated that the building is not infested and any issues can be easily addressed if given access to a unit.

Analysis

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Section 32 of the Act stipulates that a landlord must provide and maintain residential property in a state of decoration and repair that complies with health, safety and housing standards required by law, and makes the unit suitable for occupation by a tenant.

The tenant has provided a letter dated October 18, 2013 from the local city authority that states the unit is infested with mice and rodents. The letter further states that the landlords must hire a pest control company to address the issue. The landlords have employed the services of a pest control company since February 2013 and signed a one year contract that commenced April 2013. The landlord has provided extensive documentation to show the numerous visits from the pest control company and the numerous attempts made to access the tenant's unit to inspect and remedy the situation.

The landlords agent stated that the landlord has been extremely pro-active in attempting to rid the subject unit of mice but are unable to as the tenants are not allowing the landlords access. The landlords' agent stated that when a tenant calls for a repair or any other issue the matter is usually addressed the following day. Based on all the documentation and testimony before me, I find that the tenant has failed to meet the above grounds as outlined, specifically #2, #3, and #4. The tenant has restricted the landlord from carrying out their duties and responsibilities. I find that the landlords have been conducting their business in accordance with the Act in a timely and reasonable fashion.

The tenants have not been successful in their application.

Conclusion

The tenant's application is dismissed in its entirety.

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: October 30, 2013

Residential Tenancy Branch

