



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0974774 BC Ltd. dba Golden Globe Construction
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDC, MNR, MNSD, OLC, PSF, RPP, ERP, RP, and FF

Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss; for an order requiring the Landlord to make emergency repairs to the rental unit; for an order requiring the Landlord to make repairs to the rental unit; to recover the cost of emergency repairs; for the return of the security deposit; for an order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement; for an order requiring the Landlord to return personal property; and to recover the filing fee from the Landlord for the cost of this Application for Dispute Resolution.

At the hearing the Tenant withdrew the application for an order requiring the Landlord to make emergency repairs to the rental unit; for the return of the security deposit; for an order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement; and for an order requiring the Landlord to return personal property.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings. The Tenant submitted documents to the Residential Tenancy Branch, copies of which were served to the Landlord. The Landlord acknowledged receipt of the Tenant's evidence and it was accepted as evidence for these proceedings.

With the consent of both parties the Application for Dispute Resolution was amended to reflect the legal name of the Landlord, as provided at the hearing by the male Agent for the Landlord.

Issue(s) to be Decided

Is the Tenant entitled to compensation for clearing water from the basement; is the Tenant entitled to compensation for purchasing a dehumidifier; and is there a need for an order to have the Landlord replace the linoleum in the basement?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began on August 10, 2013.

During the hearing the Tenant withdrew her \$400.00 claim for compensation for cleaning solution, tools, meals, etc. and for the application for an Order requiring the Landlord to return her post dated rent cheques.

The Landlord and the Tenant agree that on October 18, 2013 at approximately 1:55 a.m. the Tenant informed the Landlord that there was a plumbing leak; that the Tenant informed the Landlord that water from the leak had accumulated in the basement; that the Landlord informed the Tenant that a plumber would be sent the following morning; and that the plumbing problem was repaired the following day.

The Tenant stated that she and her fiancé cleared most of the water from the flood during the night; that they did not go to work on October 18, 2013; and that she spent that entire day dealing with the flood in the basement. The Tenant stated that nobody helped them dry the basement. The Tenant initially stated that she could not recall if she asked for help drying the basement and she subsequently stated that she asked the female Agent for the Landlord for help cleaning the water when that agent inspected the rental unit on October 18, 2013. The Tenant is seeking compensation for lost wages for the time she and her fiancé spent dealing with the flood, in the amount of \$341.00.

The male Agent for the Landlord stated that most of the water had been cleared by the time the plumber arrived on October 18, 2013; that when the incident was first reported the Landlord was told the basement was "flooding" but the Landlord was not given information on the volume of water that entered the basement; and that the Tenant never asked the Landlord for help drying the basement. The male Agent for the Landlord argued that the Tenant should have simply moved their personal property and then waited for the Landlord to repair the flood damage.

The Tenant submitted photographs of the basement which the Tenant stated were taken after most of the water had been cleared. The Tenant stated that the basement was used for storing personal property, such as furniture, clothes, books, and suitcases.

The Tenant is seeking compensation for the cost of purchasing a dehumidifier. She stated that she asked the female Agent for the Landlord for a dehumidifier on October 18, 2013; that the female Agent for the Landlord stated that the Landlord might have one she could use; that the female Agent for the Landlord did not follow up on the

Tenant's request; and that she purchased a dehumidifier on October 18, 2013 which she used to dry the basement.

The female Agent for the Landlord stated that the Tenant never asked her for a dehumidifier; that she did not even learn about the flood until October 22, 2013; and that on October 22, 2013 the Tenant told her she had purchased a dehumidifier. The female Agent for the Landlord stated that she and a repairman inspected the rental unit on October 22, 2013 and that neither of them believed that a dehumidifier was necessary.

The Tenant stated that when they moved into the rental unit there was carpet covering some areas in the basement; that they removed some carpet after the flooding; and that she believes the linoleum under the carpet was damaged by the flooding. The Tenant is seeking an order requiring the Landlord to replace the linoleum, as she believes it is a tripping hazard. The Tenant submitted a photograph of the damaged flooring.

The female Agent for the Landlord stated that the flooring was damaged prior to the start of the tenancy; that the area is simply used for storage so the Landlord has no plans to replace the flooring; and that the Landlord will repair the flooring to ensure nobody will trip on it.

Although the request was not outlined in the Application for Dispute Resolution, the Tenant asked that the Landlord be ordered to inspect the rental unit for mould. The male Agent for the Landlord stated that the Landlord would comply with that request.

Analysis

On the basis of the undisputed evidence, I find that the basement of the rental unit was flooded with water in the early morning hours of October 18, 2013 and that the flood was the result of an unforeseen plumbing problem.

Section 67 of the *Act* authorizes me to order a landlord to pay compensation to a tenant if the tenant suffers damage or loss that results from the landlord not complying with the *Act*. Section 32(a) of the *Act* requires landlords to provide and maintain residential property in a state of repair that complies with health, safety and housing standards required by law.

When a rental unit is damaged by an unforeseen event, such as fire or flooding, the landlord must repair the rental unit and residential property. This would include, in my view, drying any areas of the rental unit that are impacted by a plumbing problem. Given the time of the incident on October 18, 2013 and the fact that the basement of this rental unit is simply used to store the Tenant's personal property, I find that the Landlord acted reasonably when the Landlord did not immediately dry the flooded area and when the Landlord arranged to have the problem repaired later that day.

When a rental unit is damaged by an unforeseen event, such as fire or flooding, the tenant is responsible for damage to their personal property, including time spent moving

or drying personal property, unless the landlord has been negligent in a duty owed to the tenant. As there is no evidence to show that the plumbing leak was the result of the Landlord's negligence, I find that the Landlord was not obligated to move or dry the Tenant's personal property that was impacted by the plumbing leak.

On the basis of the testimony of the Tenant, I find she and her fiancé cleared most of the water from the basement during the early morning hours of October 18, 2013. Although the Tenant was responsible for protecting her own personal property from being damaged by water, the Tenant was not obligated to dry the basement. I find that the Tenant's decision to clear the water from the basement in the early morning hours, rather than to wait for the Landlord to respond to the problem during business hours, made it largely unnecessary for the Landlord to clear the basement of water.

In reaching this conclusion I note that both the male Agent for the Landlord and the female Agent for the Landlord testified that the Tenant did not ask for help cleaning the basement. Although the Tenant contends she did ask the female Agent for the Landlord for help cleaning the basement on October 18, 2013, I find that her testimony is not particularly reliable, given that she initially stated that she could not recall if she asked for help cleaning the basement.

Conversely, I found the female Agent for the Landlord to be a credible witness, as her testimony was consistent throughout the hearing. I placed significant weight on her testimony that she did not even learn about the flood until October 22, 2013 and that she could not, therefore, have been asked for help to clean the basement on October 18, 2013.

As the Tenant did not provide the Landlord with a reasonable opportunity to clearing the water from the basement after the flood on October 18, 2013, I dismiss the Tenant's claim for compensation for time she and her fiancé spent drying the basement.

Section 33 of the *Act* requires landlords to compensate tenants, in certain circumstances, for the cost of emergency repairs, which includes repairs made for the purpose of repairing major leaks in pipes or the roof, damaged or blocked water or sewer pipes or plumbing fixtures, the primary heating system, damaged or defective locks that give access to a rental unit, and the electrical systems. Section 33 of the *Act* does not require a landlord to compensate a tenant for purchasing a dehumidifier for the purposes of drying a rental unit, as that is not considered an "emergency repair".

The *Act* does not require a landlord to compensate tenants for non-emergency repairs and purchases, unless the landlord agreed to those purchases or repairs. The undisputed evidence is that the Landlord did not authorize the Tenant to purchase a dehumidifier nor does the Landlord believe the purchase was necessary. I therefore dismiss the Tenant's claim for the cost of the dehumidifier.

Given that the basement in the rental unit is just used for storage, I find that it is not necessary for the Landlord to replace the linoleum. On the basis of the photographs

submitted in evidence, I find that the linoleum should be repaired. I therefore order the Landlord to repair the linoleum, prior to January 30, 2014, so that people using the basement are not at risk of tripping. I do not find that the repair needs to be esthetically pleasing, given that this is a storage area.

As the request for a mould inspection was not outlined in the Application for Dispute Resolution, this is not an issue I can address at the hearing. In the interests of providing some stability to this tenancy, however, the Landlord is strongly encouraged to comply with the male Agent for the Landlord's commitment to inspect the basement for mould.

I find that the Tenant's Application for Dispute Resolution has been largely without merit and I dismiss the application to recover the fee for filing this Application for Dispute Resolution.

Conclusion

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: December 09, 2013

Residential Tenancy Branch

