



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Northern Property REIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR, FF, MNDC

Introduction

This is a request for a Monetary Order, a request to allow the tenant to reduce the rent for repairs services or facilities agreed-upon but not provided, and a request for recovery of the \$50.00 filing fee.

Some documentary evidence, photo evidence, and written arguments have been submitted by the prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

Issue(s) to be Decided

Is the applicant entitled to a rent reduction of \$500.00 per month from May 2013 through October 2013 due to driveway that had very large potholes?

Is the applicant entitled to recovery of his \$50.00 filing fee?

Background and Evidence

The applicant testified that:

- The paved driveway at the rental property had developed very large potholes and therefore he contacted the landlords, first on April 19, 2013, and then on May 27, 2013, and on both occasions was unable to reach the office manager so he left a message regarding the condition of his driveway.
- The potholes in his driveway are so large that had he not had a very high pickup truck he would not have been able to even use the driveway. A normal car would have bottomed out.
- He never received any return call from the landlords and therefore on July 30, 2013 he went into the landlord's office, spoke to the woman at the counter, and left his name, cellular number, and his complaint. He was told someone would get back to him.
- He heard nothing back from the landlord and therefore on August 12, 2013 he contacted the office manager and at that time she informed him that she took pictures of the driveway on April 20, 2013 and sent the information to head office.
- The office manager also told him that she had attempted to find companies to repair the driveway but as yet had received no return calls.
- He heard nothing further and therefore on September 27, 2013 he again called the office manager and she again informed him that she been unable to find anyone to repair the driveway.
- As nothing had been done by October 22, 2013 he applied for dispute resolution, and is requesting a rent reduction of \$500.00 per month as compensation for having to continue to use the driveway with extremely large potholes.
- On November 4, 2013 a company showed up, removed the old asphalt, and put in a temporary gravel driveway which he assumes will be paved, come spring.

The respondent testified that:

- They believe the tenants request for compensation is totally unreasonable because he had no loss of use of the driveway at any time.
- She does not dispute that there were large potholes in the driveway, however the applicant was still able to use the driveway with his pickup truck, and there is alternate parking very close by had the applicant chosen to use it.
- Further, although she admits that the applicant did contact them in the spring with regards to the driveway, she had been unable to find any companies to repave the driveway.
- This area is a very busy area and the paving companies do not have time to do small driveways.
- In many cases the company she contacted would not even get back to her.
- She apologizes if the tenant feels that she did not keep him properly informed, however she felt there was little point in contacting him until she found a solution to the problem.
- Eventually she was able to find a company that would remove the old asphalt, and replace it with a compacted gravel driveway.
- She feels the compacted gravel driveway is a reasonable replacement to the driveway that was there, and as stated above, since the applicant was able to use the driveway even when the potholes were there, she does not believe any compensation is justified.

Analysis

It is my decision that I will not allow the applicants request for compensation because, although I'm sure it was very inconvenient having a driveway with large potholes, it's my finding that there was little if any loss of use.

I'm sure it was frustrating for the applicant to have to wait so long for a solution to the problem with the driveway, however I accept the landlords testimony that she was

unable to find a contracting company willing to do the repair and that's what resulted in the delay.

That being said, I will allow the applicants request for recovery of the filing fee, because the landlord failed to keep the applicant updated during her attempts to find a contracting company, and had she done so, there may not have been in need for dispute resolution.

Conclusion

The tenant's application for a rent reduction and monetary compensation of \$500.00 per month is dismissed without leave to reapply.

I Order however, that the landlord bear the cost of the filing fee paid for this hearing. The tenant may therefore make a one-time deduction of \$50.00 from future rent payable to the landlord.

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

