



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC

Introduction

This is a request for a Monetary Order in the amount of \$910.00, and a request for recovery of the \$50.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, 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

Has the applicant established a monetary claim against the respondent and if so in what amount?

Background and Evidence

The applicant testified that:

- January 10, 2014 she reported a leak in the ceiling of her bedroom.
- On January 10, 2014 the landlords designate cut a small hole in the ceiling and placed the bucket to catch the water.
- On January 11, 2014 contractor made a larger hole in the ceiling and a large amount of water poured out, fortunately she had moved the majority for belongings out of the bedroom and therefore nothing got wet other than some shoes and clothing that she was able to dry out with no problem.
- Again although a tarp was put over top, it continued to drip into the bucket.

- She was informed that the repair would probably take a couple of weeks and therefore she decided to seek alternate accommodation.
- She was never informed by the landlords that the bedroom was habitable.
- She was informed on January 20 that the external repair to the roof had been completed but they would have to wait until it rained in order to test the repair.
- She therefore chose not to move back into the rental unit until they were sure that the repair had been successful as she did not want to incur any damage to her belongings if it turned out that the repair had failed.
- She asked the landlords if they could test the repair with a hose or pressure washer however the landlords chose not to do so.
- Therefore since it did not rain until the end of January 2014, the ceiling was not repaired until January 31, 2014.
- As a result she did not have the use of the bedroom of the rental unit for a full 21 days and therefore believes she should be compensated for loss of use with the return of 21 days worth of her share of the rent. Her roommate pays one half the \$1550.00 rent, and she pays the other half.
- Further, since she couldn't stay in the bedroom, she had to pay for alternate accommodation and believes the landlord should also reimburse her for the cost of that accommodation.

She is therefore requesting a Monetary Order as follows:

Loss of use for 21 days	\$542.50
Cost of alternate accommodation	\$367.50
Filing fee	\$50.00
Total	\$960.00

The respondent testified that:

- There was a leak at the rental property that was reported on January 10, 2014, however the matter was dealt with promptly and there's no reason why the tenant was unable to use the bedroom.
- His agent responded immediately on January 10, 2014, cutting a hole in the ceiling and placing a bucket to catch the leak.
- The next day on January 11, 2014 contractor examined the leak, made a larger hole in the ceiling to drain out the excess water, and installed a tarp over the leaking area.
- The contractor then repaired the exterior as soon as possible and the tenant was informed on January 20 that the exterior of the building had been completely repaired on January 17, 2014.
- They did have to wait for rain to be able to test whether the repair had been successful, however since the next rainfall was not until January 29, 2014 they were unable to confirm the success of the repair until that date.
- It was their contractor's decision that the best test would be to wait until it rained, and therefore since he was the professional they followed his advice.

- However, it did not rain at all between the date the tenant was informed the repair was completed and the date when they confirmed that the repair was successful and therefore again they fail to see why the tenant could not be living in the bedroom.
- Once they confirmed the repair was successful the ceiling was repaired as soon as possible.
- They therefore believe that there is no reason why they tenant could not have been using the bedroom for the full term, and they dispute any need for the return of any rent, or the cost of alternate accommodation.
- Further even if the tenant chose not to use the bedroom, why could she not have slept on the couch as most people would?
- Further they do not believe that the tenant's cheque of \$367.50 that is identified as rent for Jan/Feb is sufficient evidence to show that the tenant paid for alternate accommodation.
- They therefore request that this application be dismissed in full.

Analysis

It is my finding that it was reasonable for the tenant to vacate her bedroom for the term of this repair.

It is not reasonable to expect that the tenant should keep using the bedroom of this rental unit when there is no assurance that further leaking will not occur.

The landlords have argued that since a tarp was put over the leaking area the day after the leak occurred; there was no reason for the tenant to vacate the bedroom.

The landlords have also stated that since the exterior repair was completed on the 17th there was certainly no reason for the tenant to stay out of the bedroom after that date.

The landlords however have stated that the exterior repair could not be tested until they got rainfall in the area, and that did not occur until January 29, and therefore even the landlords were not sure that further leaking would not occur prior to that date.

The tenant has stated that she chose not to move back into the bedroom without any assurance that her belongings would not be damaged by further leaking and it's my finding that this was a reasonable decision.

Landlord has also argued that the tenant could have slept on her couch rather than seeking alternate accommodation, however I accept that, since good portion of the

tenants belongings had to be moved out of the bedroom, this also made the other living space less usable.

I will therefore allow the tenants claim for loss of use and enjoyment in the amount of \$525.00. I have not allow the \$542.50 claimed by the tenant as that is based on a 30 day month, and January is a 31 day month.

I am not however willing to allow the claim for alternate accommodation.

First of all, the amount I have allowed for loss of use and enjoyment more than covers the amount the tenant claims to have paid for alternate accommodation.

Secondly, I agree with the landlords that the evidence supplied by the tenant in the form of a cheque, is insufficient evidence to show that this money was paid for alternate accommodation.

I will however allow the tenants request for recovery of the \$50.00 filing fee, as I have allowed the majority of her claim.

Conclusion

Pursuant to 67 of the Residential Tenancy Act I've issued an Order for the respondent to pay \$575.00 to the applicant.

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 18, 2014

Residential Tenancy Branch

