



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing was convened by way of conference call in response to the tenant's application for the cost of emergency repairs and to recover the filing fee from the landlord for the cost of this application.

The tenant, the landlord and the landlord's lawyer attended the conference call hearing. The tenant and landlord gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the tenant entitled to recover the cost of emergency repairs?

Background and Evidence

The parties agreed that this tenancy started on May 01, 2012 for a fixed term tenancy of one year. The tenancy continued for a further year and ended on April 30, 2014. Rent for this unit was \$2,700.00 per month and was due on the 1st of each month.

The tenant testified that in April 2013 the downstairs toilet backed up. The tenant called the landlord about making this emergency repair and the landlord asked the tenant to get a plumber. When the plumber arrived he found the lines blocked and the sump pump was burnt out; however, the lid to the sump pump was very old and rusty and this was damaged when the plumber took it off. The sump pump was found to be clogged with disposable wipes which had caused the sump pump to burn out.

The tenant testified that while his daughter and granddaughter were visiting just previous to the toilet becoming blocked they may have flushed disposable wipes down the toilet; however the tenant testified that he had also found disposable wipes left behind by the previous tenant which may also have contributed to this blockage.

The tenant testified that he sent the bill for the repair to the landlord but as the landlord thought the tenant was responsible for this blockage and subsequent sump pump repair he would not pay the bill. The tenant testified that as he did not know whether or not the blockage had occurred as a result of the disposable wipes used by his daughter, the tenant paid the bill of \$1,963.50.

The tenant testified that later on in September, 2013, when the house was being sold, it reminded the tenant about this bill. The tenant emailed the landlord and suggested that as it was unclear who was responsible for the disposable wipes that the parties split the bill in half. The landlord should also have been responsible for the cost of the repair to the lid of the sump pump as it was obvious that this was old and had not been regularly maintained. The tenant testified that he is willing to pay for part of the bill and amended his claim to \$1,500.00.

The lawyer for the landlord stated that when the tenant first informed the landlord of the required repair the landlord wanted to use his own plumber but recalls that the tenant wanted to use the services of his plumber. The landlord agreed to this but did not agree to pay the bill. The plumber did find disposable wipes blocking the line which had burnt out the sump pump. Prior to this the sump pump had never had any issues.

The lawyer for the landlord stated that when the bill was received from the tenant the landlord contacted the tenant and said that the landlord should not have to pay this bill as the problem was caused by the tenant. The tenant paid the bill and the landlord did not hear again from the tenant on this matter until September, 2013 when the tenant emailed the landlord stating the landlord should pay some of the bill.

The landlord testified that the sump pump is 30 years old but is an indoor sump pump and does not suffer from rust and has never had any issues prior to this that warranted a repair if the tenant had not clogged the line then no repair would have been necessary.

The tenant disagreed with the landlord's testimony and testified that the landlord asked the tenant to get a plumber and suggests that the sump pump had not been properly maintained over the course of 30 years.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties, I refer the parties to s. 32 (3) of the *Act* which states:

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

I find it is reasonable that the line was blocked through the actions of the tenant or the tenant's daughter by putting disposable wipes down the toilet. This resulted in the sump pump blockage and subsequent burn out of the pump. The tenant argues that the previous tenant also had some disposable wipes in the unit which may have equally contributed to this blockage; however, this tenancy had been in place for nearly two years without any issues with blocked lines or issues with the sump pump after the previous tenant had moved out, I therefore find it is reasonable for the landlord to

assume that this damage occurred solely because of the tenants or the tenant's daughters actions in putting disposable wipes down the toilet.

With regard to the lid of the sump pump being damaged; if the sump pump did not require a repair then it is likely that the lid need not have been removed and would not have been damaged. I further find that the tenant has insufficient evidence to show that the lid was rusted which contributed to the damage to the lid.

I therefore find the tenant must be held responsible for the bill to unblock the line, and replace the sump pump and lid.

Conclusion

Due to the above I find the tenant's application is dismissed without leave to reapply.

The tenant must bear the cost of filing this application.

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: July 22, 2014

Residential Tenancy Branch

