



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, ERP, RP, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord by mailing, by registered mail to where the landlord carries on business. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order for repairs?
- b. Whether the tenant is entitled to a monetary order?
- c. Whether the tenant is entitled to an order for the abatement of past or future rent and if so how much?
- d. Whether the tenant is entitled to recover the cost of emergency repairs?
- e. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a month to month written tenancy agreement that provided that the tenancy would commence on August 1, 2012. The present rent is \$735 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$360 at the start of the tenancy.

The tenant seeks a repair order. In addition the tenant seeks a monetary order in the sum of \$1450 for the reduced value of the tenancy.

Analysis

Application for a Repair Order

The tenant testified that since the late summer of this year she has been experiencing a leak through the outer wall that is spread to carpets in the living room. She stated she does not know what caused it but believes it was caused by roots and/or broken drainage tiles. The problem occurs a couple days after a rainstorm. The tenant also seeks an order to replace the fridge and to replace the carpet. There is a large hole in the freezer portion of the freezer. The carpet has mould from dampness caused by a leak that has been subsequently fixed.

I do not accept the evidence of the landlord that the tenant has caused this damage. The most likely explanation of the leak in the wall is that which was offered by the tenant. It appears the hole in the fridge may have been caused by the fridge overheating in the middle of the heat wave in the summer. The tenant testified she is uncertain but believes the fridge is over 20 years old. The carpet is of a similar age.

I determined a repair order is appropriate in this situation. As a result I ordered the landlord to complete the following by December 31, 2015:

- a. Fix the leak in the wall
- b. Replace the fridge.
- c. Replace the living room carpets

Monetary Order:

With respect to each of the tenant's claims I find as follows:

- a. I dismissed the claim of the tenant to recover the cost of an emergency repair. She agreed with the landlord that they would split the cost of the emergency call out. I determined the tenant is not entitled to this claim as it does not meet the definition of emergency repair as set out in the Residential Tenancy Act. Further, the tenant is bound by the agreement she has made.
- b. I determined the tenant is entitled to compensation in the sum of \$50 (reduced from the \$100 claim for compensation) for being 4 days without a sink.
- c. The tenant claimed \$1000 for compensation for being subjected to mold and mushroom toxins for the last 3 months. The doctor's note relied on by the tenant is of little help. It states what the tenant has said to him (cough and headache) and states that by looking at the photographs she provided "This environment is not conducive to good health." He has not inspected the rental unit. Further, it does not offer an opinion that the condition of the rental unit has caused her headaches and cough. However, I am satisfied that the condition of the walls and wet floor (with its mould etc.) has significantly reduced the value of the tenancy to the tenant and the tenant is entitled to compensation in the sum of \$100 per month for 4 months for a total of \$400 (for the period September, October, November and December 2015)..

Reduction of Rent

I dismissed the tenant's application for the reduction of future rent if the landlord fails to comply with the repair order. It is not possible to properly assess the tenant's loss where the repair order involves more than one item. However, if the landlord fails to comply with the repair order the tenant is at liberty to file another application claiming compensation for the reduced value of the tenancy. The requested repairs are not large. There is insufficient evidence that the landlord will fail to comply with this order.

If the landlord fails to make the repairs as provided above the tenant has liberty to re-apply.

Conclusion

I ordered the landlord(s) to pay to the tenant the sum of \$450 plus the sum of \$50 in respect of the filing fee for a total of \$500 such sum may be deducted from future rent.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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, 2014

Residential Tenancy Branch

