



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, 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 on February 5, 2015. 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 allowing a tenant to reduce rent for repairs, services or facilities agreed upon but not provided?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The parties entered into a written tenancy agreement that provided that the tenancy would start 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.

On December 9, 2014 the tenant was successful in obtaining a repair order. There was a typographical error in the decision and order which stated that the repairs had to be completed on December 31, 2015. On January 12, 2015 the tenant obtained an order correcting the decision. The corrected order provided that the landlord completed the following by December 31, 2014:

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

The landlord has failed to take steps to complete the repairs.

The tenant testified she obtained carpeting from another source and has replaced the carpet in the living room, dining room and hallway. There was not sufficient carpet to replace the carpet in the bedroom. The cost to the tenant was \$300 for the carpet plus \$250 for installation.

The landlord disputed this claim on the basis the tenant did not obtained the landlord's consent. However, the landlord acknowledged that the cost of carpet and installation was reasonable.

The landlord testified the rental property has been sold with completion to take place some time in March.

Analysis

An arbitrator does not have the jurisdiction to award punitive damages. However, where a landlord has failed to make repairs an arbitrator does have the authority to make a monetary order to compensate the tenant for the reduced value of the tenancy.

The landlord failed to replace the carpet as ordered. Normally, an arbitrator would order that the tenant pay a reduced rent until those repairs have been completed. However, in this case the tenant replaced the carpet on her own after it became apparent the landlord was not going to make the repairs. The landlord conceded that the amount claimed for the cost of replacing the carpet was reasonable. I determined the tenant is entitled reimbursement of the sum she has paid to replace the carpet and the installation of the carpet. Thus, the tenant is entitled to \$550. I determined the tenant is not entitled to an order for the reduced value of the tenancy as she has dealt with this problem.

The landlord has failed to take steps to repair the leak in the wall and replace the fridge. The tenant submitted the rent should be reduced by \$200 per month as it has involved a daily changing wet paper used to capture the leak. The landlord disputes the amount of the claim. He submits \$50 per month is a more appropriate reduction of rent. I determined the enjoyment of the rental unit has been reduced on a regular basis as it involves a daily changing of wet papers. However, I determined the amount claimed by tenant is excessive. I determined the tenant is entitled to a reduction of rent of \$100 per month starting January 1, 2015 (January, February and March 2015) for a total of \$300. In addition the tenant is entitled to a reduction of rent of \$50 per month for the failure of the landlord to replace the defective fridge for a total of \$150 (January, February and March 2015).

Monetary Order and Cost of Filing fee

I ordered the landlord(s) to pay to the tenant the sum of \$1000 plus the sum of \$50 in respect of the filing fee paid pursuant to section 49 for a total of \$1050 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.

In addition I ordered that if the landlord failed to make the repairs as previously ordered by the date the rent for April is due, the rent shall be reduced as follows:

- \$100 per month commencing April 1, 2015 and on the first of each month thereafter until the repairs to the leaky wall are completed;
- \$50 per month commencing April 1, 2015 and on the first of each month thereafter until the fridge is replaced.

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: March 02, 2015

Residential Tenancy Branch

