



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FF, MNDC, MNR

Introduction

This is an application for a monetary order for \$11,332.41.

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

I gave the parties the opportunity to present all relevant evidence, however at the start of the conference call both the applicants and the respondent stated that they believe they have provided all relevant evidence in their written submissions, and asked that I make my decision based on the written submissions and evidence provided.

The applicants further stated that they are reducing their claim by \$259.35, because the landlord has allowed them to deduct the cost of the emergency plumbing repairs from their rent.

Issue(s) to be Decided

The issue is whether or not the applicants have established a monetary claim against the respondent, and if so in what amount.

Background and Evidence

This claim has been brought forward as the result of a flood that occurred in the rental unit on March 31, 2014.

As a result of the flood and the required restoration, the applicant/tenants had to move out of the rental unit between April 4, 2014 and June 4, 2014.

The applicants are therefore requesting a monetary order for loss of use of the rental unit, and payment of the cost of utility bills for the period of time that they were not living in the rental unit.

The applicants are also requesting a partial rent reduction for the period of June 4 to June 16, during which time the dishwasher was not hooked up, and the laundry area doors were sitting in the children's playroom.

The applicants also claim that the restoration company failed to properly clean the rental unit when they completed their work, and as a result they had to hire a cleaning company.

The total reduced claim the applicant/tenants are requesting is as follows:

reimbursement of rent paid due to loss of use from April 4, 2014 to June 4, 2014	\$9150.00
Partial loss of use from June 4, 2014 to June 16, 2014	\$180.00
Cleaning costs	\$80.00
Hydro utility invoice April 4, 2014 to April 8, 2014	\$45.01
Hydro utility invoice April 8, 2014 to June 6, 2014	\$332.42
Gas utility invoice April 5, 2014 to May 7, 2014	\$44.97
Gas utility invoice May 8, 2014 to June 4, 2014	\$82.13
Water utility invoice April 4, 2014 to June 4, 2014	\$168.53
Inconvenience, stress and discomfort	\$1000.00
Filing fee	\$100.00
Total	\$11,183.06

In the landlord's written response to the tenants claim, the landlord argues that he believes the tenants were reimbursed for loss of use of the premises by their insurance company, and therefore he should not have to be reimbursing them as well.

Landlord also states that he does not believe the cleaning costs are related to the repairs that were completed due to the sewer backup as the restoration company had already been paid for cleaning.

The landlord further states that he is happy to pay the tenants utility costs related to the repairs, however he does not believe he should have to pay the full amount because, for example, the repairs could not have increased the cost of the water Bill.

The landlord also argues that he should not have to be paying anything for the tenant's stress as he was not the cause of the stress and therefore he does not believe he is liable.

Analysis

It is my finding that the landlord must reimburse the tenants for the rent they paid for the period of time that the rental unit was unusable. Rent is paid on the condition that the landlord provide the tenants with a rental unit, however if that rental unit is not available to the tenants then the tenants are not required to pay any rent for the period of time that it's not available.

I also find the tenants claim for reduced use of the rental unit for loss of use of the dishwasher, and the inconvenience of having closet doors out of place to be reasonable, and I will allow that portion of the claim.

It is also my finding that the landlord must bear the cost of utilities for the rental unit for the full period of time that the tenants were unable to live in the rental unit. If the tenants are not in the rental unit, then the utilities charges are not the result of the tenants use and therefore the landlord must bear the full cost of all utilities, including the water bill, for that time..

I will not allow the claim for cleaning, as it's my finding that the applicants have not met the burden of proving this portion of their claim. The applicants state in their submission that the rental unit was left in need of cleaning, however they have provided insufficient evidence to meet the burden of proving that further cleaning was required when they moved back into the rental unit.

I also deny the applicants claim for inconvenience, stress, and discomfort, because this situation was a result of a flood in the rental unit that could not have been foreseen by the landlord, nor is there any evidence to show that it was the result of any negligence on the part of the landlord. Therefore it is my finding that the landlord has no liability for

the inconvenience, stress, or discomfort that was caused to the tenants as a result of this flood.

Therefore the total amount of the claim that I have allowed is as follows:

Reimbursement of rent for full loss of use	\$9150.00
Reimbursement of rent for partial loss of use	\$180.00
Total cost of utilities	\$663.06
Filing fee	\$100.00
Total	\$10,093.06

Conclusion

I have allowed a total claim of \$10,093.06 and I have therefore issued an Order for the respondent to pay that amount to the applicants.

The remainder of this claim is dismissed, without leave to reapply.

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 17, 2015

Residential Tenancy Branch

