



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, MNDC, RP, FF, O

Introduction

This hearing was convened by way of conference call in response to the tenants' application to cancel a One Month Notice to End Tenancy for cause; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order for the landlord to make repairs to the unit, site or property; other issues and to recover the filing fee from the landlord for the cost of this application.

The tenant JS and the landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord confirmed receipt of evidence. I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

At the outset of the hearing the parties advised that the tenants are no longer residing in the rental unit. Therefore, the tenants withdrew their application to cancel the Notice to End Tenancy and for an Order for the landlord to make repairs.

Issue(s) to be Decided

Are the tenants entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The parties agreed that this tenancy started on January 01, 2015. Rent for this unit was \$1,000.00 per month due on the 1st of each month.

JS testified that when they went to look at the unit they were assured that the floor, hotwater tank and washer dryer were all new. JS testified that they had a seven year old child and his partner was seven months pregnant so they were happy to have found a nice place to rent. Two to three weeks into January the landlord mentioned that she was unhappy with some of the flooring installation and the installers were coming back to do some more work on the floor. The installers did come back early in February.

JS testified that on February 21, 2015 they went away for a few days and when they returned to collect some things they noticed the laminate flooring was lifting in places. JS was worried that the flooring installers had messed up against so JS called the landlord to let the landlord know there was a problem. Later the landlord came into the unit to replace the toilet as agreed. While the landlord and her boyfriend were in the unit the tenants returned and found their boxes that had been stored in the hotwater tank area had been moved out.

The landlord's boyfriend informed JS that the washing machine had leaked and the water was coming back up through the new flooring. The landlord contacted a company who brought in high powered fans to dry the flooring and concrete out. JS was told the fans would have to run for four days and that the tenants could stay in a hotel and keep any receipts for reimbursement. The landlord's boyfriend also said it was no one's fault but the hose to the washer had not been connected properly.

JS testified that they had to find somewhere else to stay until the floor was dried out and the flooring repairs made. The landlord had said it could take as long as two weeks or even until the end of March. The tenants found a hotel and moved in there. This hotel offered a monthly rate of \$650.00 and the tenants also had to pay a \$325.00 security deposit which was returnable.

JS testified that while staying at the hotel they still had to return to the unit to get some belongings. The whole place smelt of glue and the fans were constantly running. The tenants called the landlord and mentioned that the landlord may have to reimburse the tenants for hotel costs but the landlord has failed to do so. The tenants therefore seek to recover \$650.00 for hotel costs.

JS testified that due to the fans running for four days they will incur higher hydro bills for February and seek to be reimbursed any additional costs incurred. JS testified that they had paid rent for February and March. The landlord did return the rent for March; however, as they had to move out of the rental unit on February 23, 2015 the tenants seek to be reimbursed for five days rent for February of \$178.57.

JS testified that the landlord has not offered the unit back to the tenants and as far as the tenant know the work has still not been fully completed. The tenants have now found another place to live as the landlord also informed the tenants that they had found mould in the unit.

The landlord disputed the tenants' claim to recover hotel fees. The landlord testified that the tenants were never told to go and stay in a hotel. The landlord agreed that the fans were noisy in the unit but the tenants could have still lived there while the flooring was being ripped up and replaced. The landlord testified that she did tell the tenants that they either had to move their belongings out of the unit or leave so the floor installers could put down the new floor.

The landlord testified that the restoration work started on February 22, 2015 as soon as the flood was discovered. The landlord does not dispute the tenants' claims to recover the five days of rent paid for February, 2015. The landlord testified that they did not find mould in the unit. The landlord confirmed her address for service is the dispute address at the hearing as no previous address for the landlord had been provided.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. I find the flood did not occur as a result of the tenants' actions or neglect but was caused by the faulty connection of the washer hose. The landlord argued that the tenants could have remained living in the unit while the restoration work continued. I am not satisfied that the tenants should be expected to live in the unit while noisy fans are running for 24 hours a day over four days or to live there while the entire floor was being ripped up and replaced. The inconvenience to the tenants would be sufficient for them to stay in a hotel until the work was completed. The landlord does agree that she asked the tenant to either remove their belongings or move out while the floor was being replaced and I find it would be unreasonable for the tenants to have to suffer this inconvenience if they still had to live in the unit.

I therefore uphold the tenants' claim to recover hotel costs of **\$650.00**. With regard to the refundable security deposit paid to the hotel; the tenants must deal with that directly with the hotel.

With regard to the tenants' claim to recover additional costs for hydro due to the fans running; the tenants have the burden of proof to show how much extra their hydro bills increased over the four days the fans were running. The tenants have insufficient evidence to show that their hydro has increased significantly. While I appreciate that there may be some additional costs I cannot award an amount for hydro without some evidence as to the actual increase. This section of the tenants' claim is therefore dismissed.

I am satisfied that the tenants should be reimbursed five days rent for February as they had to vacate the rental unit. The landlord does not dispute this portion of the tenants' claim. The tenants are therefore entitled to recover the amount of **\$178.57** from the landlord.

As the tenants' claim has merit I find the tenants are entitled to recover the filing fee of **\$50.00** from the landlord pursuant to s. 72(1) of the *Act*.

Conclusion

For the reasons set out above, I grant the tenants a Monetary Order pursuant to Section 67 and 72(1) of the *Act* in the amount of **\$878.57**. This Order must be served on the Respondent and may then be filed in the Provincial Court (Small Claims) and enforced as an Order of that Court if the Respondent fails to comply with the Order.

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: April 08, 2015

Residential Tenancy Branch

