



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes LAT, RR

Introduction

This was a hearing with respect to the tenants' application for an order authorizing the tenant to change the locks and for a rent reduction. In a document attached to the application for dispute resolution the tenants referred to other claims, including complaints with respect to noise and disturbance, water leaks and needed repairs and a lack of heat. The hearing was conducted by conference call. The named tenant called in and participated in the hearing. The tenant served the landlord with the application and Notice of Hearing sent by registered mail sent on March 19, 2015. According to the Canada Post records, the landlord failed to pick up the registered mail. The tenant testified that he told the landlord that he had made an application to the Residential Tenancy Branch. Failure to pick up registered mail is not a valid reason for failure to attend a hearing. The landlord is deemed to have been served with the application on the fifth day after it was mailed.

Issue(s) to be Decided

Are the tenants entitled to repair orders, including an order that the lock be changed?

Are the tenants entitled to a rent reduction?

Are the tenants entitled to any other relief?

Background and Evidence

The rental unit is a basement suite in the landlord's house in Mission. The upstairs of the house is occupied by other tenants. The tenancy began on February 1, 2015 for a one year term ending February 28, 2016. The monthly rent is \$720.00, payable on the first of each month. The tenants paid a security deposit of \$360.00 on January 30, 2015.

In the application for dispute resolution the tenants specifically mentioned only two remedies; they requested authority to change locks and they asked for a rent reduction.

In the four handwritten pages submitted with their application they raised a multitude of other issues. The tenants complained that they had been told that there were two adults and one teen aged child living upstairs as well as one dog. The tenants complained that there was constant noise and disturbance from the upstairs occupants. They said that in addition to the adults living upstairs, there were three children, two cats and a rabbit as well as a new puppy. The tenant said that he has spoken to the landlord on at least four occasions about the noise. The landlord has responded inconsistently; he has said that he will speak to the occupants and he has also said that it is not his problem.

The tenants complained about a water leak from the upstairs into their bathroom. At the hearing the tenant said that the leak has now been fixed, but he said there is now a large hole in the bathroom ceiling that the landlord has not fixed.

The tenant testified that the entrance to the rental unit passes through a garage. The tenant said that the garage is extremely messy and an embarrassment when visitors come to see the tenants. The tenant complained that there is no doorbell and that the door lock to the suite is defective. The tenant said that the door does not unlock properly; when the key is inserted it spins freely before eventually unlocking. The tenant asked the landlord to change the lock but he refused to do so. He told the tenants that he spent \$115.00 on door locks before they moved in.

The tenants complained that the dryer does not work, but the tenant testified that he replaced the dryer and the landlord reimbursed him for the cost of the replacement dryer.

The tenant complained that the stove was not working and said that the tenants could not cook and had to go to restaurants to eat. The tenant said the stove has now been fixed, but he requested compensation for the cost of food. The tenants did not provide any documentary evidence or receipts to support the claim.

The tenants requested that they be granted a rent reduction of \$400.00 per month or the payment of their moving costs and: "the balance remaining on the fixed term lease."

At the hearing the tenant testified that the noise problem caused by the upstairs occupants was intolerable and that the noise was affecting the tenants' ability to perform hazardous work. The tenant said that he was considering moving because of the noise and he mentioned a loss of income suffered because of the noise problem.

Analysis

The tenants complained of a water leak, a broken dryer and a non-working stove. At the hearing the tenant said that all of these issues have been repaired. The tenants' continuing complaints are that the entrance door lock is not working properly; that the garage that leads to the suite entrance is messy and that there is a hole in the bathroom ceiling that needs to be repaired. The tenant said that all of these issues have been brought to the landlord's attention. The tenants have made no written requests to the landlord; all these matters have been the subject of verbal discussions and perhaps text messages exchanged with the landlord.

The tenants have not claimed a monetary award and they have not supplied any documents or receipts to support an award, such as receipts or evidence of expenditures. In the absence of any written requests to the landlord with respect to the need for repairs or for action by the landlord with respect to the claimed noise and disturbance, I do not find that there are grounds to support the claim for a rent reduction.

I direct the tenants to the provisions of section 45(3) of the *Residential Tenancy Act* which provides as follows:

(3) If a landlord has failed to comply with a material term of the tenancy agreement or, in relation to an assisted or supported living tenancy, of the service agreement, and has not corrected the situation within a reasonable period after the tenant gives written notice of the failure, the tenant may end the tenancy effective on a date that is after the date the landlord receives the notice.

If the tenants contend that the noise problems are seriously interfering with their use and quiet enjoyment of the rental unit, it is up to them to give the landlord written notice of the matters complained of and a reasonable period to rectify the problems. If the problems are not corrected, the tenants may be entitled to end their fixed term tenancy. They may also be entitled to make a monetary claim for loss of use and quiet enjoyment of the rental unit.

With respect to the outstanding repair items mentioned by the tenant, I direct the landlord to forthwith repair or replace the entrance lock to the rental unit and I direct him to have the garage leading to the rental unit to be restored to a clean and orderly state. I further direct the landlord to have the bathroom ceiling professionally repaired, finished and painted.

Save and except for the matters stated above, the tenants' claims, including the claim for a rent reduction are dismissed with leave to reapply. I have also considered the tenants' request for compensation for a non-functioning stove and this claim has been denied.

If the tenants wish to pursue a further claim against the landlord relating to noise or other disturbance, they must communicate their complaints to the landlord in writing before proceeding with another application.

Conclusion

The landlord has been directed to make specific repairs; all other matters mentioned in the application are dismissed. The tenants have leave to make a further application to address their continuing complaints of noise and disturbance.

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 20, 2015

Residential Tenancy Branch

