



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Langara Gardens Holdings Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR, FF, O

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the "Act") for Orders as follows:

1. An Order for a rent reduction - Section 65;
2. An Order to recover the filing fee for this application - Section 72; and
3. Other.

The body of the application sets out details of the claim indicating that the Tenant is also seeking compensation pursuant to section 67. The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to a rent reduction?

Is the Tenant entitled to compensation?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on October 4, 2014 for a fixed term to end October 31, 2015. The tenancy ended on April 30, 2015. Rent of \$1,750.00 was payable monthly and at the outset of the tenancy the Landlord collected \$875.00 as a security deposit.

The Tenant states that the roof of the building containing the unit was in disrepair and as a result a leak into the bedroom occurred into the unit on February 5, 2014. The Tenant states that her new mattress and cover was damaged from the leak. The Tenant claims \$1,042.00 for its replacement. The Landlord states that the roof was only 15 years old and that it had an expected remaining life of 10 years. The Landlord states that the roof is inspected annually and

that the leak occurred due to the requirement for a minor repair that had not been noticed. The Landlord denies acting negligently in relation to the upkeep of the roof. The Landlord states that the damage to the mattress was minor and could be cleaned. The Landlord offered \$150.00 to cover the costs of cleaning and the Tenant accepted this to settle the claim for the mattress.

The Tenant states that the repair for the leak left a hole in the ceiling and that the repair was not completed until February 24, 2015. The Tenant states that as a result the Tenant could not use the bedroom and was inconvenienced with the care of her newborn. The Tenant claims a refund of the rent paid for the period February 5 to 23, 2015 inclusive. The Tenant states that only the bedroom was affected and that the Tenant had otherwise full use of the unit. The Landlord states that the Tenant refused a fan or humidifier for the room after the leak and that as a result the ceiling required a hole to allow the area to dry for repairs. The Landlord offers \$63.00 for compensation to the Tenant based on the lost square footage of the unit but the Tenant refuses this amount.

The Tenant states that repairs were started on the roof in mid-March without notice to the Tenant and that the repairs caused noise in the unit for approximately 6 hours. The Tenant states that more repairs are required and given the expectation of noise from the future repairs and the smell of paint, the Tenant decided to move out of the unit. The Tenant claims \$200.00 for the cost of the move. No invoice or receipt was provided. The Landlord states that there was no need for the Tenant to move as the remaining repairs were not over the Tenant's unit and could have been completed after the fixed term tenancy ended. The Landlord states that they informed the Tenant of this and that the remaining repairs would only take a half day to complete.

The Tenant withdraws the claim for rent refund for the period February 24, 2015 to the end of the tenancy.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused

by the actions or neglect of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established.

Given the undisputed evidence that the Tenant refused a dryer and humidifier in the unit, I accept that the Tenant caused the delay in the repairs. As such I find that the Tenant is not entitled to the amount of compensation claimed for the period of time that the unit had a hole in the ceiling. Given the undisputed evidence that the roof was repaired in the middle of March 2014, accepting that it took approximately 6 hours and considering that there would reasonably be some discomfort for the Tenant, I find that the Tenant has only substantiated a nominal entitlement of **\$50.00**. Accepting the undisputed evidence that the remaining repairs to the roof were minor, I find that the Tenant has not substantiated that the tenancy had to end because of the remaining repairs and I dismiss the claim for moving costs. As the tenancy has ended, I dismiss the claim for a rent reduction. As the Tenant's application has met with limited success, I decline to award the filing fee. Given the agreement of the Parties on **\$150.00** for the cost of cleaning the mattress, I find that the Tenants total entitlement is **\$200.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$200.00**. If necessary, this order may be filed in the Small Claims 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: May 14, 2015

Residential Tenancy Branch

