



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Ardent Properties Inc.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, RR, FF

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. A Monetary Order for compensation - Section 67;
2. An Order for a rent reduction – Section 65; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlords and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

At the onset of the tenancy the Tenant confirmed that the tenancy has ended. As a claim for a rent reduction is only relevant to an ongoing tenancy agreement and as the tenancy has ended, I dismiss the claim for a rent reduction.

Issue(s) to be Decided

Is the Tenant entitled to compensation?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on May 1, 2014. Rent of \$1,525.00 was payable monthly. At the outset of the tenancy the Landlord collected \$762.50 as a security deposit. The

Landlord agrees that the Tenant is owed \$250.00 in compensation for the loss of use of a bathroom during the tenancy.

The Tenant states that the Tenant was induced into signing the tenancy agreement on the basis of promises by the Landlord to make repairs to the unit. The Tenant states that deficiencies with the blinds, gas fireplace, carpet, and kitchen cupboard were noted on the move-in condition report. The Tenant states that the Landlord failed to replace the broken blinds that could not be lowered until January 2015. The Tenant states that as a result of not having the blinds replaced the Tenant suffered a loss of quiet enjoyment of the unit as there were no window coverings to block the sun and that the privacy inside the unit was also lost. The Tenant states that there were drapes but these were sheer and tattered.

The Tenant states that the gas fireplace did not function and there was no flame. The Tenant states that the fire place was not repaired until December 2014.

The Tenant states that the large kitchen cupboard among a few other small cupboards was not secured and not useable as it had a risk of falling. The Tenant states that the cupboard was not repaired until January 2015 and that the Tenant suffered a loss of use of the kitchen as it was small and dependant on the large cupboard.

The Tenant states that the carpet was a loose "flap" between her disabled son's bedroom and bathroom that the Landlord failed to repair until December 2015. The Tenant states that because of this flap the son required extra help by his support workers to maneuver from his bedroom over the flap. The Tenant claims \$900.00 for the loss of the drapes, gas fireplace, cupboard and the presence of the carpet flap from the onset of the tenancy until January 2015. The Tenant states that this amount reflects a loss of \$100.00 per month.

The Landlord states that that the blinds could not be replaced sooner due to problems with one contractor who failed to provide a quote and due to the time availability of their

handy man. The Landlord argues that the Tenant failed to be diligent in her pursuit of this repair. The Landlord states that no other options were explored to find a person sooner to replace the blinds as they felt that the issue was not critical and that the Landlord never committed to replacing the blinds by any certain date.

The Landlord states that the gas fireplace was only ornamental, only for seasonal use and did not provide heat to the unit so the Tenant did not suffer any loss during the summer months. The Landlord does not dispute that the tenancy agreement includes the gas fireplace. The Landlord agrees that the fireplace should have been repaired a month sooner than was done. The Landlord does not dispute that the cupboard was not secure and apologizes for the unfortunate oversight. The Landlord states that the Tenant did not inform the Landlord that the carpet flap would cause problems for her son or that the carpet was a safety hazard. The Landlord states that the Tenant also caused delays with the repairs by refusing entry to the Landlord between December 1, 2014 and the first week of January 2015 and by changing her instructions to the Landlord.

The Tenant states that at no time was the Landlord ever denied access to the unit. The Tenant states that she raised the deficiencies with the Landlord and refers to her emails sent to the Landlord. The Tenant provided copies of email correspondence to the Landlord in relation to the deficiencies. The Tenant states that if the fireplace were ornamental only then this was a loss as well as there was no "ornamental flame".

The Tenant states that given the Landlord's negligence in responding to required repairs and given that mold was found in the bathroom, the Tenant wishes to find another rental unit and claims compensation of \$1,560.00 as part of the expected moving costs. The Landlord states that the Tenant has no basis for this claim, that the emergency leaks were dealt with immediately, that the furnace has been cleaned and that the Landlord has no interest in having the Tenant move out of the unit.

Analysis

Section 32 of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant. 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.

Based on the undisputed evidence in relation to the kitchen cupboard I find that the Tenant has substantiated that the Landlord failed to provide a suitable kitchen. Based on the undisputed evidence that there were deficiencies with the carpet and blinds at the outset of the tenancy, that the Landlord agreed to correct these deficiencies, and that the deficiencies were not corrected until December 2014 and January 2015, I find that the Tenant has substantiated a loss under the tenancy agreement. I do not find that Landlord's reasons for the length of time taken to be reasonable or based on anything the Landlord could not control. Based on the undisputed evidence that the tenancy agreement provides for a gas fireplace and that the gas fireplace was not operational, I find that the Tenant has substantiated that the Landlord failed to comply with the tenancy agreement. Considering the amount of rent paid by the Tenant for a suitable unit and considering the Landlord's failure to repair the unit in a timely manner, I find that the Tenant is entitled to the reasonable compensation claimed of **\$900.00**.

Although the Tenant claims an additional amount in order to move, the Tenant has not provided evidence that the Landlord has done anything to cause the Tenant to move and the Tenant has not given any notice to move. While the Tenant may be justifiably apprehensive about the Landlord's timeliness on repairs, there is no basis upon which to award compensation for a possible future event. I therefore dismiss the Tenant's claim for compensation for a move out of the unit.

Based on the undisputed evidence I find that the Tenant has substantiated **\$250.00** for loss of use of the bathroom. As the Tenant's application has had merit, I find that the

Tenant is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,200.00**. The Tenant may reduce future rent payable in this amount in full satisfaction of the claim.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$1,200.00**. 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 15, 2015

Residential Tenancy Branch

