



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, MNDC, OLC, RR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act, (the “Act”), to dispute an addition rent increase, to return half the security deposit, to allow a tenant to reduce rent for services or facilities agreed upon but not provided, to have the landlord make repairs to the unit and to recover the filing fee from the tenant.

The tenant attended the hearing. As the landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were served in person, on April 20, 2015. I find that landlord has been duly served in accordance with the Act.

The tenant testified that their documentary evidence was served on the landlord in person, on May 19, 2015.

Issues to be Decided

Should the additional rent increase be cancelled?

Is the tenant entitled to the return of half the security deposit?

Is the tenant entitled to reduce rent for services or facilities agreed upon but not provided?

Should the landlord be order to make repairs to the rental unit?

Background and Evidence

The tenancy began on March 1, 2012. Rent in the amount of \$900.00 was payable on the first of each month. A security deposit of \$900.00 was paid by the tenant.

The tenant testified that at the start of the tenancy they paid the landlord the amount of \$900.00 for rent and the amount of \$900.00 for a security deposit. The tenant stated that they were not aware that the maximum amount the landlord can collect for a security deposit is equal to half the month rent which is \$450.00. The tenant stated that no pet deposit was collected or considered, as they have never had pets. The tenant seeks to recover the overpayment of the security deposit in the amount of \$450.00.

The tenant testified that the landlord sent them an email on February 28, 2015, attempting to increase the rent by 10%. The tenant stated that the landlord has not made an application for an additional rent increase, nor have they been served with a notice of rent increase in the allowable amount as determined by the regulations. Filed in evidence are emails. The tenant seeks to have the landlord comply with the Act.

The tenant testified that they have always had the exclusive use to the laundry room as the only access to the laundry room was in their rental unit; however, at the beginning of April 2015, the landlord removed a wall and installed a door, making the room a shared facility between the two units. The tenant stated that the landlord's actions devalued their tenancy and seeks a rent reduction in the amount of \$50.00 per month. Filed in evidence are photographs of the laundry room.

The tenant testified that the landlord also removed the staircase that was on their deck. The tenant stated that they want the landlord to either replace the staircase or install a railing as this is a safety issue. Filed in evidence is a photograph of the deck missing a portion of the railing and there is no staircase where the missing railing is.

The tenant testified that the landlord has also left a bunch of wood on the deck from when they were working on the roof. The tenant stated that they would like the landlord to remove the wood.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Limits on amount of deposits

19 (1) A landlord must not require or accept either a security deposit or a pet damage deposit that is greater than the equivalent of 1/2 of one month's rent payable under the tenancy agreement.

(2) If a landlord accepts a security deposit or a pet damage deposit that is greater than the amount permitted under subsection (1), the tenant may deduct the overpayment from rent or otherwise recover the overpayment

I accept the undisputed evidence of the tenant that they paid the amount of \$900.00 for a security deposit at the start of the tenancy. I find the landlord has breached the Act, when they required a security deposit greater than the allowable amount. Therefore, I find the tenant is entitled to recover the overpayment of the security deposit in the amount of **\$450.00**.

I accept the undisputed evidence of the tenant that the landlord sent the tenant an email increasing the rent by 10%. However a landlord must not increase the rent, except in accordance with section 41 of the Act. Therefore, I find the landlord has failed to comply with the Act, and the email of rent increase sent on February 28, 2015, is not valid and has no force or effect.

I accept the undisputed evidence of the tenant that their rent included the exclusive use of the laundry room. I further accept the evidence of the tenant that the landlord removed a wall and installed a door to have the laundry room between the two accommodations to create a shared facility.

Although the landlord has not restricted or terminated the service, I find that by removing the laundry room, which was exclusive to the tenant's rental unit and included in their rent, devalued their tenancy. I find the devalued amount claimed by the tenant is reasonable. Therefore, I find effective April 1, 2015, the tenant's monthly rent payable to the landlord is reduced to \$850.00 and will continue until either changed in accordance the Act, or by written agreement of the tenant.

As a result, I find the tenant has over paid rent for April 2015, May 2015 and June 2015. Therefore, I find the tenant is entitled to recover the overpayment of rent in the amount of **\$150.00**.

In this case, the landlord removed the staircase for the tenant's balcony. A railing has not been installed to enclosed the opening for the staircase and there is a serious risk of

someone falling from the deck. Therefore, **I Order** that the landlord replace the staircase on the tenant's balcony or install a railing to ensure the deck is safe, **no later than July 30, 2015.**

I further Order that the landlord is to remove the wood and any other debris that was left on the tenant's deck, **no later than July 30, 2015.**

As the tenant has been successful with their application, I find the tenant is entitled to recover the filing fee from the landlord in the amount of **\$50.00.**

In this case, I have reduced the tenant's monthly rent to **\$850.00.** The tenant is authorized to a onetime rent reduction, comprise of the above-described amounts totalling the amount of **\$650.00.** The tenant is to deduct the amount of \$650.000 from July 2015, rent in full satisfaction of the above monetary awards, leaving the balance due of **\$200.00** for July 2015, rent.

Conclusion

The tenant was successful with their application. The tenant is granted a rent reduction in the amount of \$50.00 per month, retroactive to April 1, 2015.

The tenant is granted monetary compensation comprised of the above noted amounts. The tenant is authorized a onetime rent reduction in full satisfaction of the awards.

The landlord must comply with Act, when issuing a rent increase.

The landlord is ordered to make repairs to rental unit as noted above.

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: June 04, 2015

Residential Tenancy Branch

