



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes ERP, RP, MNDC, MNDS, OLC, FF

Introduction

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

1. An Order for emergency and other repairs – Section 32;
2. A Monetary Order for compensation for loss – Section 67;
3. An Order for the return of the security deposit - Section 38;
4. An Order that the Landlord comply with the Act and tenancy agreement – Section 62; and
5. An Order to recover the filing fee for this application - Section 72.

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

Preliminary Matters

The original hearing on July 20, 2015 resulted in an interim decision that dealt with all claims except a claim for compensation. It is noted that the claim for compensation does not include compensation in relation to the presence of mold as this issue was settled as noted in the interim decision. The Parties confirmed that the Tenants were moving out of the unit as agreed and that no order of possession was required. The Tenant confirmed that it received the compensation equivalent to one month’s rent of \$1,737.50 as agreed in the interim decision.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Background and Evidence

The Tenant claims compensation for two areas: leaks with related loss of use of water, and the presence of rats with related loss of use of back yard.

The Tenant states that several rats were seen in the back yard and that a letter was sent to the Landlord on June 8, 2015. The Tenant states that the Landlord did not do anything until July 20, 2015 when traps were set. The Tenant states that because of the rats in the yard, their child or children could not play in the backyard and the Tenant claims a loss of the back yard. The Landlord states that they attended the unit within a couple of days and determined that the rats were in the pile of firewood outside the garage. The Landlord states that this pile was left by the previous owner as the unit has a wood burning fireplace. The Landlord states that the wood pile was removed, the area cleaned and traps set out within days of receipt of the Tenant's letter. The Landlord states that the Tenant caused the rats to be present by cooking outside the unit.

The Tenant states that although the Landlord agreed to repair the leaks on July 21, 2015 as contained in the interim decision the Landlord only came and looked at the leak and then did nothing until the leak turned into a full stream of water. The Tenant states that they were without any water for about 24 hours. The Landlord states that when the leak was inspected it was found to be only a very slow drip and the Landlord was not sure that this was an emergency repair. The Landlord confirms that the repair occurred on July 25, 2015.

The Tenant claims \$6,950.00 for the loss of water and for loss of use and enjoyment of the back yard due to the presence of rats.

Analysis

Section 32 of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) 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.

Given the settlement between the Parties as recorded in the interim decision, I find that the Tenant no longer has any claim for compensation in relation to the mold.

Overall the Landlord's evidence from both hearings suggests a rather slow response to complaints and a tendency to blame the Tenant for any problems without even making an inspection. I therefore accept the Tenant's believable evidence that the Landlord did not attend to set traps until a month after the rats were reported. I find this response to be negligent and find that the Tenants are entitled to compensation for the loss of the backyard for a period of two months. Considering the amount of rent paid I find that a reasonable amount of compensation for the loss of the backyard for this period would be **\$500.00** or \$250.00 for each month.

Given the Landlord's evidence that the repairs were not undertaken until 5 days after an inspection that confirmed a leak and considering that there was no evidence that qualified persons could not attend to make repairs sooner, I find that the Landlord was negligent in making repairs. However I find that the Tenant's loss was not significant and is therefore entitled to a nominal amount of **\$100.00** in compensation. As the Tenant's application has net with success I find that the Tenant is entitled to recovery of the **\$100.00** filing fee for a total entitlement of **\$700.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for **\$700.00**. 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: September 28, 2015

Residential Tenancy Branch

