



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Capreit Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

RR, FF

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenant in which the Tenant applied for authority to reduce the rent for repairs, services, or facilities agreed upon but not provided and to recover the fee for filing this Application for Dispute Resolution.

The Tenant stated that on September 24, 2015 the Application for Dispute Resolution and the Notice of Hearing were personally delivered to the Landlord's business office. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however the Landlord did not appear at the hearing.

On November October 01, 2015 the Tenant submitted eight pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was personally delivered to the Landlord's business office on October 01, 2015. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and it was accepted as evidence for these proceedings.

On November October 05, 2015 the Tenant submitted ten pages of evidence to the Residential Tenancy Branch. The Tenant stated that this evidence was personally delivered to the Landlord's business office on October 05, 2015. In the absence of evidence to the contrary I find that these documents have been served in accordance with section 88 of the *Act* and it was accepted as evidence for these proceedings.

Issue(s) to be Decided:

Is the Tenant entitled to compensation because she was unable to enjoy the full use of her bedroom for approximately eight days?

Background and Evidence:

The Tenant stated that:

- this tenancy began approximately 2.5 years ago;
- the rental unit is a one bedroom unit;
- in September of 2015 she was paying monthly rent of \$932.31;
- on September 02, 2015 there was a leak in the ceiling of her bedroom;
- the leak was reported to the Landlord on September 02, 2015;
- the Landlord cut a hole in the bedroom ceiling on September 02, 2015;
- the leak was repaired by September 10, 2015;
- she was unable to use her bedroom between September 02, 2015 and September 10, 2015 because there was a tarp over her bed and a container on top of her bed;
- she was unable to use her bedroom between September 02, 2015 and September 10, 2015 because there was a fan and dehumidifier in the room for a portion of that time; and
- she had to sleep on an air mattress in the bedroom after September 02, 2015 until the ceiling was repaired on September 10, 2015;

The Tenant is seeking compensation for being unable to use the bedroom for approximately eight days in September of 2015, in the amount of \$233.08.

The Tenant is seeking \$12.69 for hydro used to run the fan and dehumidifier in her bedroom. The Tenant submitted a hydro consumption data report that shows her hydro consumption peaked between September 02, 2015 and September 10, 2015.

The Tenant submitted a hydro invoice that shows her hydro bill for the period between August 14, 2015 and September 14, 2015 was \$33.46 and that her previous hydro bill was \$20.77. She is seeking compensation for the difference between the two bills, which is \$12.69, which she attributes to the cost of running the fan and dehumidifier.

The Tenant stated that the Landlord has never compensated for any hydro costs or inconvenience.

Analysis:

On the basis of the undisputed evidence I find that there was a leak in the ceiling of the Tenant's bedroom on September 02, 2015, which was not repaired until September 10, 2015.

On the basis of the undisputed evidence I find that the Tenant was unable to use the bedroom for its intend purpose for approximately eight days, due to the fact her bed was covered with a tarp, water was leaking into a container on her bed, and there was a fan and dehumidifier in the room.

Section 28 of the *Act* states that a tenant is entitled to quiet enjoyment including, but

not limited to, rights to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the *Act*; use of common areas for reasonable and lawful purposes, free from significant interference.

In many respects the covenant of quiet enjoyment is similar to section 32 of the *Act* which requires landlord to maintain rental units suitable for occupation and in good repair. For example, failure of the landlord to make suitable repairs could be seen as a breach of the covenant of quiet enjoyment because the continuous breakdown of the building envelop would impact occupant comfort.

Residential Tenancy Policy Guideline #6 stipulates that "it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises, however a tenant may be entitled to reimbursement for loss of use of a portion of the property even if the landlord has made every effort to minimize disruption to the tenant in making repairs or completing renovations."

Although in these circumstances there is no evidence the leak in the rental unit was the result of improper maintenance, I find that the leak did directly interfere with the Tenant's ability to use her bedroom for its intended purpose for approximately eight days. I therefore find that she is entitled to a rent refund for these eight days.

Determining the reduced value of the rental unit as a result of the Tenant's inability to use her bedroom is highly subjective, however I find it reasonable to conclude that the value of the tenancy was reduced by 50% for these eight days. This award reflects the Tenant's inability to use the room and the inconvenience of having to move property, dump the water, and clean after the repairs. This award acknowledges that the Tenant still had full use of the remainder of her rental unit during September.

The per diem rent of this tenancy in September was \$31.08. 25% of the per diem rent for this tenancy is \$15.44. I therefore find that the Tenant is entitled to a rent refund of \$123.52 (8 X \$15.44).

On the basis of the hydro consumption report submitted in evidence, I find that the Tenant's hydro consumption spiked between September 02, 2015 and September 10, 2015. As this spike is consistent with the dates of the leak, I find it reasonable to conclude that the spike was the result of efforts to dry the ceiling in the rental unit and I find it reasonable that the Tenant should be compensated for that expense.

On the basis of the hydro invoice submitted in evidence I find that the Tenant's hydro costs for the period between August 14, 2015 and September 14, 2015 were \$12.69 more than the previous billing period. I find it reasonable to conclude that the increased costs reflect the spike in hydro consumption during September and I find that the Landlord should compensate the Tenant for the hydro costs, in the amount of \$12.69.

I find that the Tenant's Application for Dispute Resolution has merit and that the Tenant

is entitled to recover the fee paid to file this Application.

Conclusion:

The Tenant has established a monetary claim of \$186.21, which is comprised of \$123.52 for being unable to use her bedroom for approximately eight days, \$12.69 in hydro costs, and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution. I hereby authorize the Tenant to reduce one monthly rent payment by \$186.21 in full satisfaction of this monetary claim, pursuant to section 65 of the *Act*.

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: January 04, 2016

Residential Tenancy Branch

