



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes erp, ff, mndcd, mnrr, mnsd, o, olc, psf, rp, rr

Introduction

The tenants apply for numerous orders from the landlord, relating directly or indirectly to a failure of the landlord to provide good, potable water to the premises, and for recovery for the expense of other repairs effected by the tenants.

The landlord did not attend the hearing. I accept the tenants' testimony that the landlord was served with notice of this hearing, the tenants' application and the tenants' evidence by way of registered mail bearing tracking numbers PG351212342CA and GW602015242CA. I accept that these items were sent to the landlord's address as provided to the tenants by the landlord at the start of the tenancy, and that this service satisfies the requirements of Section 89 of the Residential Tenancy Act, with receipt deemed to have occurred pursuant to Section 90.

At the hearing, the tenant who served as spokesman confirmed that all of the items combined, as sought in the tenants' monetary claim exceeded the maximum amount permitted to be claimed in this process. The tenant therefore abandoned the portion of the claim dealing with any recovery of past rent. That portion of the claim is therefore dismissed as abandoned.

I also noted that the claim for emergency repairs failed to meet all of the specific requirements of section 33 of the Residential Tenancy Act. That portion of the claim is therefore dismissed, and the claim for repair is dealt with in this decision under the ordinary course.

Issue(s) to be Decided

Are the tenants entitled to an order for repair to the water supply?

Are the tenants entitled to a reduction of future, pending completion of the repairs?

Are the tenants entitled to compensation for pain and suffering?

Are the tenants entitled to recover costs for repairs made by the tenants to the premises?

Are the tenants entitled to recover their security deposit from the landlord?

Are the tenants entitled to recover their filing fee from the landlord?

Background and Evidence

This tenancy of a single family home located on a 2 acre property began in August, 2014. Monthly rent is \$3,000.00. A security deposit of \$1,500.00 was paid. The tenants wish to continue this tenancy.

The past water service to the premises has been from a well situated on a neighbouring property, pumped into a holding tank. Those neighbours have since drilled their own new well. Throughout the tenancy, the water has never been clear or clean, but has been dirty and brown. Since December 29, the water in the holding tank has been frozen. The tenants submit that the landlord should be required to provide usable water to the house, by way of a proper water well on the subject property, and with a proper filtration system. The tenants have often complained about the inadequate water service, but no repair has been made by the landlord.

The tenant alleges that an award for pain and suffering should be made, as the female tenant has suffered from kidney stones and urine infections, while he suffers from asthmatic symptoms whenever he is at the premises.

The tenants' claim alleges there have been numerous repairs made to the premises by the tenants, and requests reimbursement for the costs of these repairs in the sum of \$3,061.75. The tenant alleges that the landlord verbally agreed at the start of the tenancy to reimburse him for repairs he undertakes, once he provides the required receipts. Recently he paid to have the boiler repaired, and this cost was deducted from a recent rent payment. The tenant has provided numerous receipts related to plumbing repairs to the premises over the course of the tenancy, plus another receipt related to the cost to change locks at the start of the tenancy (with the new keys provided to the landlord). Upon review, I note that one of the plumbing receipts is actually a refund for a portion of one of the receipts. The total of all the submitted receipts after this adjustment is \$530.83.

Analysis

I accept the tenant's submissions that the providing by the landlord of clear and clean potable water is a service or facility that is essential to the tenants' use of the rental premises. This is supported by Section 32 of the Act which requires that a landlord must provide and maintain the premises in a state of decoration and repair that makes it suitable for occupation. I also note that section 27 of the Residential Tenancy Act prohibits a landlord from terminating or restricting such a service. I am provided no evidence of any formal agreement with the neighbour, which would satisfy the landlord's obligations to provide potable water to the tenants. Even if some form of agreement exists, I have no basis upon which to confirm that such agreement is enforceable by the landlord, or is sufficient to satisfy the requirement of the landlord to provide the tenants with their water needs.

Accordingly, the repair sought by the tenants is appropriate. I order that the landlord immediately arrange for a new water well to be drilled on the subject property, and that an appropriate filtration system be installed to ensure that the tenants are provided with

potable water. Should this repair not be completed by February 15, 2016, or within 2 weeks of service of this order upon the landlord, whichever is later, the tenants shall be entitled to a rebate of rent of February of \$250.00. Should there be further delay in completing this repair, the monthly rent for the following month of March shall be reduced by \$500.00. If the repair remains incomplete by March 31, 2016, the monthly rent for April and every subsequent rent shall be reduced by \$1,000.00, and such rental reduction would continue every month until the repair is completed.

The claim for pain and suffering is not supported by proper medical evidence such as medical reports of a qualified medical practitioner. I do not have satisfactory proof that the conditions testified about exist, or that these conditions have been caused by deficiencies in the rental premises, or other circumstances for which the landlord is liable. This portion of the claim is dismissed.

I accept that the landlord has agreed to reimburse the tenant for costs of repairs made, as evidenced by receipts. The tenant has proven repair costs totaling \$530.83, and this sum is ordered paid to the tenants. The tenants have also requested recovery of their \$100.00 filing fee. As they have been successful in part of their award, and as the landlord should have voluntarily provided a proper water service long before now, I order recovery of the full filing fee by the tenants from the landlord. Should the landlord not immediately make voluntary payment to the tenants for this total sum of \$630.83, the tenants are entitled to deduct this sum from a future rental payment.

As the tenancy is ongoing, there is no basis upon which to order the reimbursement of the tenants' security deposit at this time. This portion of the claim is dismissed.

Conclusion

The landlord must drill a new water well, and provide potable water to the tenants. Should the landlord fail to do so in a timely way, the tenants' future rent is reduced.

The landlord must pay the tenants the sum of \$630.83, representing reimbursement of receipts, and of the tenants' filing fee.

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 25, 2016

Residential Tenancy Branch

