



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

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

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order that the landlord make emergency repairs.
- b. An order that the landlord make repairs to the rental unit.
- c. An order that the landlord provide services or facilities required by the tenancy agreement or law.
- d. A monetary order in the sum of \$3000.
- e. An order for the reduction of rent for repairs, services, or facilities agreed upon but not provided
- f. An order that the landlord comply with the Act, regulations, and/or the tenancy agreement.
- g. An order to recover the cost of the filing fee?

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on March 5, 2016.

Issue(s) to be Decided:

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order for repairs or emergency repairs?

- b. Whether the tenant is entitled to an order for the abatement of past or future rent and if so how much?
- c. Whether the tenant is entitled to a monetary order?
- d. Whether the tenant is entitled to an order for the reduction of rent for repairs, services, or facilities agreed upon but not provided
- e. An order that the landlord comply with the Act, regulations, and/or the tenancy agreement.
- f. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began in December 2014. The tenancy agreement provided that the tenant(s) would pay rent of \$935 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$467.50 at the start of the tenancy.

The tenants have experienced a reduction in the value of their tenancy caused by the leak in their ceiling; The landlord have made attempts to repair the leak but has had limited success. They have now determined that it was caused by a leak in the patio door of the rental unit above the tenants' unit. They believe they have now solved the problem. .

Analysis - Application for a Repair Order

With respect to each of I ordered the landlord to do the following:

- a. Repair the ceiling in the area around the leak.
- b. Shampoo the carpet.

I further order that the repairs be complete by April 20, 2016. If the leak problem continues the tenants have liberty to re-apply. The has agreed to this order.

The tenants seek compensation in the sum of \$3000 based on the following:

- The tenants testified they experienced problems with the leak soon after moving in and that they are entitled to a reduction of rent of \$200 per month for 15 months.
- The tenants experienced problem with the leak in December 2014 and January 2015 on an almost daily basis
- During the months of February and March it was intermittent with a leak problem a couple of times of week for some week and not problem for other weeks.
- During the summer months there was limited problem with the leak.

- In early September 2015 the leak became a major problem. The tenants rely on a letter to the landlord dated September 8, 2015 outlining problems with the rental unit.
- The tenant experienced significant problems in November 2015 and over the Christmas period. They also experienced a major problem in February 2016 and followed it with a letter to the landlord expressing their concerns
- Throughout the entire period they tenants have had to live with the eye sore of a hole in their ceiling.
- The leak has resulted in reducing their access to the balcony.
- The leak has damaged and left stains on their couch which they purchased from a friend for \$200.

The landlord testified they have made every reasonable effort to fix the leak including the following:

- In November 2015 they received an emergency call and sent maintenance personnel to conduct an investigation.
- In December and January a roofing company conducted an investigation and made some repairs.
- On December 23, 2015 they called in another roofing crew who determined the problem was in a different location (the patio door of the upstairs rental unit).
- The remediation work was finally completed around the third week of March. The landlord believes the problem has now been solved.

Monetary Order:

Policy Guideline #16 includes the following:

“Where a landlord and tenant enter into a tenancy agreement, each is expected to perform his/her part of the bargain with the other party regardless of the circumstances. A tenant is expected to pay rent. A landlord is expected to provide the premises as agreed to. If the tenant does not pay all or part of the rent, the landlord is entitled to damages. If, on the other hand, the tenant is deprived of the use of all or part of the premises through no fault of his or her own, the tenant may be entitled to damages, even where there has been no negligence on the part of the landlord. Compensation would be in the form of an abatement of rent or a monetary award for the portion of the premises or property affected.”

I determined the tenants suffered a reduced value of the tenancy caused by the leak and they are entitled to compensation. However, I determined the amount claimed in

not supported by the evidence and is not reasonable. In coming to this conclusion I determined that there was extended periods of time where there was no leak. I have also determined the tenant failed to file an Application for Dispute Resolution in a timely manner thus delaying the resolution of this problem. However, I satisfied the enjoyment of the rental unit was reduced by dealing with the leak. The tenants' use of the balcony was restricted, the holes in the ceiling were unsightly, their couches received stains and the carpets became dirty because of it. The landlord's efforts in fixing the leak was not effective until recently. I determined the tenants are entitled to compensation in the sum of \$800 for the reduced value of the tenancy caused by the leak and the delays in repairing it.

Conclusion

I ordered the landlord(s) to pay to the tenant the sum of \$800 such sum may be deducted from future rent.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

All other claims in the Application for Dispute Resolution are dismissed. However, if the problem is not resolved the tenants' have liberty to re-apply.

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: April 04, 2016

Residential Tenancy Branch

