



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC

Introduction

This hearing dealt with the tenant's application for monetary compensation for damage or loss stemming from a flood in the rental unit. The tenant and the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Background and Evidence

The tenancy began on July 12, 2014, with monthly rent of \$1,100.00. The parties agreed that on April 23, 2016 a flood occurred in the rental unit. The tenancy ended on June 30, 2016.

Tenant's Claim

The tenant claimed compensation under four headings: property damage; lost income; rent reduction; and loss of quiet enjoyment.

In regard to property damage, the tenant stated that the flood was not a surprise, as the landlord neglected her duty to maintain the rental unit. The tenant submitted that the water pipes that burst were old and had been used for a long time. The tenant stated that his property that was damaged was:

- (a) a 40 lb bag of rice, approximately \$30.00;
- (b) two bath towels used to soak up water from the flood, approximately \$20.00;
- (c) some books, soaked but still readable, approximately \$20.00; and

(d) some furniture, soaked but still useable; approximately \$30.00.

In regard to loss of income, the tenant stated that at 7:00 p.m. on April 28, 2016, he received a phone call from the landlord, who told him that the next day the flooring would be removed, and he had to stay home to help move his furniture. The tenant stated that he asked for a different time but the landlord refused. The tenant stated that he remained home on April 29 and May 2, 2016 to assist with moving the furniture, and as a result he lost \$300.00 in wages.

In regard to reduction of rent, the tenant stated that he had to live with concrete floors for May and June 2016. The tenant stated that the landlord told him that everything would be restored in two weeks, but it was not. The tenant stated that the landlord suggested that the tenant move out, but he could not do so because his son was studying for very important exams, and his school was very close to the rental unit.

The tenant submitted in his evidence a copy of a letter dated May 24, 2016, in which the tenant made a written request for repairs. The tenant stated that despite this, the landlord did not install new flooring until after he moved out. The tenant submitted that he "would not live in a unit with a rough dirty floor even if it was free." However, he acknowledged, he did receive services such as hot water, and he is therefore seeking a rent reduction from \$1,100.00 per month for those two months to \$200.00 per month, for a rent reduction of \$1,800.00 in total.

In regard to loss of quiet enjoyment, the tenant stated that as a result of the flooring being removed, the conditions in the rental unit were "squalid." He stated that there was a stench of mould; there were dust particles in the air that made him and his son sneeze and cough; and there were swarms of flying and crawling ants in every corner of the unit. The tenant stated that as a result of these conditions, he and his son suffered psychological stress. The tenant has claimed \$1,000.00 in compensation for loss of quiet enjoyment.

In response to the landlord's evidence, the tenant stated that he moved the heater and blower into the hallway because the company asked him to put them out so they could pick them up.

Landlord's Response

The landlord stated that the tenant called them on April 23, 2016 at 8:00 a.m. about the water leaking, and they arrived at the rental unit at 10:00 a.m. to see that the unit was badly flooded. The landlord stated that when they were there, the only damage they were shown was a book with a few drops of water on it.

The landlord pointed out that the tenant chose not to have insurance. The landlord stated that the tenant interfered with the repairs by not allowing the strata's insurance agent to inspect the unit and by twice removing the blower and heater from the unit and putting them in the hallway. The landlord stated that they informed the tenant the repairs would take about two months, and he should go live somewhere else. The landlord stated that they offered to help the tenant find somewhere else to live.

Analysis

I find that the tenant is not entitled to compensation as claimed.

Under section 7 of the Act, when a landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with the Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

In this case, the tenant did not provide sufficient evidence to establish that the landlord failed to comply with the Act, the regulations or the tenancy agreement. The tenant did not establish on a balance of probabilities that the landlord's negligence caused the flood. The tenant did not have insurance that would have covered the cost of any damaged property. Furthermore, the tenant did not take reasonable steps to minimize his loss of use or loss of quiet enjoyment. The landlord was willing to allow the tenancy to end early, and suggested that the tenant move. The tenant chose to remain in the rental unit despite what he has described as "squalid" conditions. I do not find that reasonable.

As the tenant's application was not successful, he is not entitled to recovery of his filing fee for the cost of his application.

Conclusion

The tenant's application was not successful, and it is dismissed in its entirety.

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: December 8, 2016

Residential Tenancy Branch