



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BASTION DEVELOPMENT CORPORATION
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes mndc, o, rp

Introduction

The tenant applies for an order for repairs and a monetary award as against the landlord.

The tenant attended, but no representative of the landlord attended the hearing. I accept that the landlord was properly served by registered mail with notice of this hearing and the tenant's evidence, and note that Canada Post's tracking process confirms that a representative of the landlord signed for the registered mail package.

Issue(s) to be Decided

Is the tenant entitled to an order for repairs?

Is the tenant entitled to monetary compensation from the landlord?

Background and Evidence

This tenancy began October 1, 2010. Monthly rent is \$1,350.00. All rent is paid to date. The tenant rents an apartment on the second floor of a four-storey low-rise building. On two occasions following very heavy rainfall, he has experience a water leak. On both occasions, the landlord opened the ceiling, but identified no leak and made no repair before closing the ceiling up again. The first incident occurred in 2013, and the more recent incident was on July 9, 2016.

The second leak caused damage to the tenant's desk when water continuously dripped onto it overnight. He has been advised the damage, which involves swollen wood and bubbling of the laminate, cannot be repaired. The tenant paid \$2,563.93 for the desk, and prior to the water damage it was in excellent condition. The tenant has not made a claim through his insurance, and believes if he did the deductible would be \$500.00.

While cleaning up after the more recent leak, the tenant's sister received a shock while unplugging a lamp that was plugged in to the electrical outlet closest to the area of the water leak.

The tenant speculates that water may be entering the building, perhaps through a side wall during times of heavy rainfall, travels along a beam over his unit, before dripping onto his ceiling. He believes the water leak has likely also caused an electrical problem.

Analysis

A tenant is entitled to reside in a leak free environment. Any water leak that results in ingress of water into a residential rental unit has the potential to cause damage, and in some cases can result in a safety hazard. If unattended and unrepaired, the concern of a possibility of future water raises anxiety in a tenant, and potentially could result in a loss of enjoyment of the premises.

In this case, there is absolutely no evidence that the tenant caused the water leak, and no certain evidence as to the actual cause or source of the leak. What is apparent, however, is that there was a prior leak in exactly the same area, which was not repaired by the landlord, and which also occurred following a heavy rainfall. In fairness, the leak does not happen during every rainfall, or even during every heavy rainfall. While it may not be easy to pinpoint exactly how the water is getting in, there are certainly tests that can occur to identify the possibilities, and to make repair so that the likelihood of another occurrence is removed. I therefore order that the landlord take all steps necessary to identify the cause of the water leak, and to then make such repair as to ensure that no further leak occurs. I order that this identification and repair work be completed by March 31, 2017. I would expect that the landlord would hire a qualified roofing consultant or expert for this purpose. The tenant must be advised in writing as to the results of the investigation, and the actual repair work done. Should the tenant have basis for continued concern thereafter, the tenant has liberty to reapply for a further order, including an order for an abatement of rent pending repair, or alternatively for an order to make the repairs himself, with all costs being deducted from future rental payments.

I further order that the landlord have a qualified electrician investigate and determine the cause of the electrical shock, and make such repairs as are required to ensure no further shock will occur. This repair must occur immediately, and be completed no later than February 28, 2017. The tenant must be advised in writing as to the results of the investigation, and the actual repair work done. Should the tenant have basis for continued concern thereafter, the tenant has liberty to reapply for a further order, including an order for an abatement of rent pending repair, or alternatively for an order to make the repairs himself, with all costs being deducted from future rental payments.

I find that the landlord is liable for any financial loss suffered by the tenant as a result of the water leaking upon his desk. I note however, that section 7(2) of the Residential Tenancy Act requires that a party who suffers damages must take reasonable steps to minimize their damages. I consider a reasonable step to be a claim through the tenant's insurance. I therefore assess the tenant's actual loss to be the sum of \$500.00 representing the amount of his deductible. The landlord must pay this sum to the tenant.

As the tenant is successful in this claim, I further award the sum of \$100.00 to the tenant, representing recovery from the landlord of the tenant's filing fee.

The total compensation awarded is \$600.00. This sum is payable by the landlord to the tenant immediately. As an alternative, if payment has not been received by the tenant, the tenant may deduct this sum from a rental payment owed to the landlord.

Conclusion

The landlord must identify the cause, and make repair to prevent any further water leak no later than March 31, 2017. The landlord must identify the cause, and make repair to prevent any further electrical shock no later than February 28, 2017. The landlord must pay the sum of \$600.00 to the tenant.

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 31, 2017

Residential Tenancy Branch