



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, RP, RR, OPR, MNR, MNDC, MNSD, FF

Introduction

This hearing was convened in response to an application by the Tenant and an application by the Landlord pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant applied on January 9, 2017 for:

1. An Order cancelling a notice to end tenancy - Section 46;
2. An Order for repairs to the unit - Section 32;
3. An Order for a rent reduction - Section 65.

The Landlord applied on January 13, 2017 for:

1. An Order of Possession - Section 55;
2. An Order for unpaid rent or utilities - Section 67;
3. A Monetary Order for compensation - Section 67;
4. An Order to retain the security deposit - Section 38; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord did not attend the hearing either to respond to the Tenant's application or to pursue its own application. I accept the Tenant's evidence that the Landlord was served in person on January 13, 2017 with the Tenant's application for dispute resolution and notice of hearing in accordance with Section 89 of the Act. The Tenant states that no application for dispute resolution was given to the Tenant from the Landlord. Given the Landlord's failure to attend to pursue its application I dismiss the Landlord's application. The Tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to a cancellation of the notice to end tenancy?

Is the Tenant entitled to an order for repairs?

Is the Tenant entitled to an order for a rent reduction?

Background and Evidence

The tenancy started on July 15, 2016. Rent of \$1,500.00 is payable on the first day of each month. At the outset of the tenancy the Landlord collected \$750.00 as a security deposit.

At the onset of the tenancy the unit was provided to the Tenant and his roommate unclean with a heavily stained and soiled carpet. The bathtub had a large crack that allowed water to seep out whenever the shower was used. The bathtub could not be used. The Tenant asked the Landlord to clean the unit but the Landlord did not so the Tenant attempted to clean the unit. The carpet was cleaned however the soil and smells could not be removed. The only thing the Landlord did was hire a person to remove fleas that were in the unit. The Tenant asked the landlord to repair the tub and the Landlord failed to repair the tub. By October 2016 rats started to enter the unit. Several rats were seen outside the building and heard inside the walls and pipes of the unit. The Tenant informed the Landlord however the Landlord did nothing. On December 16, 2016 the Tenant was bit by a rat that came out of a heating vent and required medical attention. The Tenants roommates moved out of the unit due to the rats and the Landlord's failure to remedy the situation. The Tenant has found another place and intends to move out of the unit by February 10, 2017. The Tenant no longer requires repairs because of the move-out.

Because of the rats, the bathtub and the carpet the Tenant lost his roommates who were sharing the rent. Because the Tenant lost his roommates all the rent could not be paid. Although the Landlord gave the Tenant a 10 day notice to end tenancy for unpaid rent, the amount indicated on the notice is not the amount the Tenant owes. The Tenant owes \$1,950.00 for rents to January 31, 2017 and the Tenant claims a rental reduction for the state of the unit and the Landlord's failure to make repairs.

Analysis

Section 32 of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 65 of the Act provides that an order may be granted that past rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement. Based on the undisputed evidence of the Tenant of the deplorable state of the unit, I find that the Landlord failed to provide and maintain the unit as required under the Act. I find that as a result the Tenant experienced a loss in value in the tenancy. Considering that the Tenant was also physically harmed by the presence of rodents I find that the Tenant is entitled to compensation in the form of a past rent reduction of \$1,950.00. I also find, given the condition of the unit and the Tenant's evidence of a move-out in February 2017, that the Tenant is not obliged to pay any rent for the period February 1 to 15, 2017, inclusive. As the past rent reduction is equivalent to the undisputed amount of rent the Tenant owes to and including January 2017, I set the entitlement off the rent owed leaving no amount to be paid to the Tenant.

As the Tenant is moving out of the unit and as the Landlord's application for an order of possession has been dismissed I find that the issue of whether the Notice is valid is no longer alive. As the Tenant is moving out of the unit I dismiss the claims for repair of the unit.

Conclusion

The Landlord's application is dismissed. The Tenant's entitlement has been set off against the rent owed to the Landlord.

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: February 03, 2017

Residential Tenancy Branch