



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute codes MNDC FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attend this hearing and were given a full opportunity to provide sworn testimony, to present evidence and to make submissions.

Issues

Is the tenant entitled to a monetary order for damage or loss?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background & Evidence

The tenancy for this condominium unit began on July 15, 2013 with a monthly rent of \$1625.00 payable on the 1st day of each month. The tenancy ended on November 30, 2014.

The tenant is claiming a refund of 2 months' rent for the period of August and September 2014 during which time the landlord was making major repairs and drywall work. The tenant submits the unit is only 800 square feet and it was very inconvenient to the tenants to have these repairs ongoing especially considering his wife was going through a pregnancy during this time.

The landlord testified that on July 23, 2014 he responded to a call from the tenants regarding some water damage and a leak. He discovered a small crack in a water pipe

that needed replacing. The landlord testified that the repair work to the cracked pipe was done in a timely manner and the drywall repair was delayed at the tenants own request to have it completed until after the tenants vacated the unit. The tenants had originally planned to vacate the rental unit just after July 2014 but ended up not vacating until end of November 2014.

Analysis

Pursuant to section 28 of the Act, a tenant is entitled to quiet enjoyment of the rental unit including but not limited to rights to the following:

- reasonable privacy;
- freedom from unreasonable disturbance;
- exclusive possession of the rental unit, subject to the landlord's rights contained in section 29; and
- use of common areas for reasonable and lawful purposes, free from significant interference.

Residential Tenancy Policy Guideline #6 "Entitlement to Quiet Enjoyment" provides the following guidance:

In order to prove a breach of the entitlement to quiet enjoyment, the tenant must show that there has been substantial interference with the ordinary and lawful enjoyment of the rental premises. This includes situations in which the landlord has directly caused the interference or was aware of the interference but failed to take reasonable steps to correct it. It is also necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises. Temporary discomfort or inconvenience does not constitute a basis for a breach under this section.

I find that the tenant has provided insufficient evidence of substantial interference with the ordinary and lawful enjoyment of the rental unit. I find in fixing the leaking pipe and drywall, the landlord was within his right and responsibility to repair and maintain the rental unit. The tenant provided insufficient evidence that they suffered anything more than a temporary discomfort or inconvenience. Further, the tenant's own e-mail evidence supports the landlord's argument that the tenant himself requested for the drywall repairs to be delayed until after he vacated the rental unit.

The tenant's application for compensation for loss is dismissed.

As the tenant was not successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord.

Conclusion

The tenant's application is dismissed without leave to reapply.

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: May 04, 2017

Residential Tenancy Branch