



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR MNDC

Introduction

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

- a monetary order for compensation for loss or money owed under the *Act*, regulation or tenancy agreement pursuant to section 67; and
- an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

All parties were represented at the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

As the parties were in attendance I confirmed that there were no issues with service of the tenants' application for dispute resolution ('application'). The landlord confirmed receipt of the tenants' application. In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenants' application. As all parties confirmed receipt of each other's evidentiary materials, I find that these were duly served in accordance with section 88 of the *Act*.

The tenants indicated that they moved out of the rental unit on March 31, 2017. Accordingly their application to reduce rent is withdrawn.

Issues

Are the tenants entitled to a monetary order for compensation for loss or money owed under the *Act*, regulation or tenancy agreement?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or

arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began in July of 2014. The monthly rent for this two bedroom, 2 bathroom apartment was set at \$1,830.00. An \$875.00 security deposit was collected by the landlord, and was returned to the tenants after this tenancy had ended. The tenants moved out on March 31, 2017.

The tenants testified that the unit had an emergency leak from November 2016 to December 2016 in one of the bathrooms. The tenants testified that they were subjected to excessive noise, dirt, dust, and debris due to renovations that the landlord undertook from December 2016 until they vacated the rental suite. The tenants also testified that they were subjected to loss of privacy and quiet enjoyment due to these repairs, and the landlord failed to provide a work schedule to them. The tenant, JG, testified that she lost the entire use of her bathroom in January 2017, and had to share with the other tenant. The tenants also testified that they did not feel safe as the exterior walls were removed for repairs, and the workers would enter and exit the suite.

The tenants wrote a letter to the landlord on December 31, 2016 requesting a rent reduction, and the landlord offered compensation in the amount of \$1,500.00 which the tenants accepted in February 2017. At that time, the tenants did not realize their electricity bill would be affected by the drop in temperature due to the repairs. They testified that the workers were using the electricity for their power tools, which also contributed to the substantially higher bill. The tenants submitted the electricity bill dated December 9, 2016, which indicated a balance of \$129.00 for the months of October to December 2017. The tenants testified that the bill was normally only \$50.00. The previous balance on the bill was \$60.76. The tenants also submitted an electricity bill dated February 9, 2017, for the months of December 2016 to February 2017. The balance owing on that bill was \$252.74. The tenants also submitted gas bills dated February 4 and March 4, 2017, indicating balances of \$66.33 and \$104.31 respectively. The tenants stated that the renovations have not only contributed to a significant loss of quiet enjoyment of their suite, but a large monetary loss as well. The tenants are seeking monetary compensation in the amount of \$2,950.00 for this loss as follows:

Item	Amount
November-December 2016, loss of quiet enjoyment and privacy	\$600.00
January 2017-loss of quiet enjoyment and privacy. Discomfort due to cold.	300.00

February 2017—loss of quiet enjoyment and privacy. Discomfort due to cold.	300.00
March 2017—loss of quiet enjoyment and privacy. Discomfort due to cold.	1,200.00
Utility Bills for January & February 2017	250.00
Total Monetary Order Requested	\$2,650.00

The landlord testified that the leak was on common property, and the repairs and timeline were out of her control. The renovations were a necessity as the entire building was being rain screened, and was considered an emergency repair. The landlord testified that she made efforts to communicate with the tenants by email as she was not in town, and met the tenant as soon as she was able to in January of 2017. She testified that she compensated the tenants \$1,500.00 without hesitation, and that the repairs took longer than anticipated due to the unexpected mold the contractors discovered while doing the repairs. As the unit had two bathrooms, the landlord stated that the tenants had the full use of a bathroom during the entire repairs, and that these repairs were done only during business hours.

The landlord testified that she had fulfilled her obligations, and that the tenants had a duty to contact their own insurance provider for any additional compensation.

Analysis

Section 32(1) and (2) of the *Act* outlines the following obligations of the landlord and the tenant to repair and maintain a rental property:

32 (1) *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(1)(c) and (f) of the *Act* allow me to issue a monetary award to reduce past rent paid by a tenant to a landlord if I determine that there has been “a reduction in the value of a tenancy agreement.”

I have considered the testimony of both parties, and while the tenants had provided testimony to support that they had experienced stress and inconvenience during this tenancy, the tenants did not provide sufficient evidence to establish that the landlord failed to fulfill her obligations as required by section 32(1) of the *Act* as stated above. I accept the landlord's testimony that the building required emergency repairs, and that the landlord had to take the necessary steps to maintain the property in a state of repair as required by law with regard to the age of the home and availability of materials for the home. The tenants did not provide any witness testimony, nor did they produce any expert evidence, to support that the landlord had failed in their obligations. I find that the inconvenience and stress that the tenants faced are the result of the landlord's necessary steps to fulfill their obligations, rather than their failure to fulfill their obligations, as required by section 32 of the *Act*.

I note the tenants' concerns that the work schedule was not communicated to them, but I am not satisfied that the landlord failed in their obligations as a landlord. I accept the landlord's testimony that these repairs were part of a larger rain screen repair to the entire building, and steps were taken by both the building management and landlord to mitigate the inconvenience and discomfort caused, such as ensuring that the tenants had the use of at least one full bathroom. I find that the landlord addressed the tenants' concerns in a timely manner, and fulfilled their obligations as required by the *Act*. The landlord responded to the tenants' requests for a reduction in rent by providing monetary compensation in the amount of \$1,500.00, which was accepted.

The tenants submitted a monetary claim for \$2,650.00, which included the reimbursement for the utility bills. I accept the tenants' undisputed testimony that the bills were substantially higher due to the renovations, and the use of the power tools inside their suite, which was supported by the bills submitted in their evidence. Accordingly, I find that the tenants are entitled to compensation in the amount of \$250.00, the amount claimed by the tenants for this additional expense.

Although I find that the tenants' expectations of this tenancy were not met, I find there is insufficient evidence for me to make a finding that the landlord had failed to meet their obligations regarding this matter. I find that the landlord had complied with the *Act*, and have provided adequate compensation to the tenants. On this basis, I am dismissing the remainder of the tenants' monetary claim including their claim for the loss of quiet enjoyment and privacy and for exposure to cold conditions as a result of the repairs to the rental unit while they were living there.

Conclusion

I issue a Monetary Order in the tenants' favour for \$250.00. The tenants are provided with this Order in the above terms and the landlord must be served with a copy of this Order as soon as possible. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The remaining portion of the tenants' monetary application is dismissed without leave to reapply. The tenants withdrew their application for a rent reduction as they had already vacated the rental suite

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 19, 2017

Residential Tenancy Branch