



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, PSF, RR, MNDC

Introduction

This hearing dealt with an application by the tenant 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;
- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord was assisted by his daughter.

As both parties were in attendance I confirmed that there were no issues with service of the tenant’s application for dispute resolution, the tenant’s amendment to her application for dispute resolution or either party’s evidentiary materials. The parties confirmed receipt of one another’s materials. In accordance with sections 88 and 89 of the *Act*, I find that the landlord was duly served with the tenant’s application for dispute resolution, the amendment to the application and the evidentiary materials. I find that the tenant was duly served with copies of the landlord’s evidence in accordance with section 88 of the *Act*.

Issue(s) to be Decided

Is the tenant entitled to a monetary award for damages as claimed?

Is the tenant entitled to an order that the landlord makes repairs or provides services?

Is the tenant entitled to a monetary order to reduce the rent for the reduced value of the tenancy arising from the landlord's failure to make repairs?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here. The principal aspects of the tenant's claim and my findings around each are set out below.

The parties agreed on the following facts. This tenancy began in September, 2016. The current monthly rent is \$1,180.00. A security deposit of \$580.00 was paid at the start of the tenancy and is still held by the landlord. The rental unit is the basement suite of a detached home. The landlord occupies the main floor of the rental building.

The tenant testified that the following aspects of this tenancy require repairs or maintenance:

- 1) The smoke detector
- 2) Rodent Infestation
- 3) Outdoor Lights
- 4) Heating System
- 5) Wall of the Furnace Room

The tenant is also seeking a monetary award for the following items:

Item	Amount
Car	\$1,500.00
Furniture	\$1,000.00
Moving Costs	\$700.00
Loss from Rodents	\$1,000.00
General Damages	\$5,000.00
Cleaning Costs	\$1,000.00
TOTAL	\$10,200.00

The tenant also seeks an unspecified amount for what she characterizes as the emotional abuse and harassment she has experienced during this tenancy.

The tenant testified that the smoke detector in the rental unit is not functional. She noted that there was an incident of a gas leak during the tenancy and the detector did

not alert her of the leak. The landlord said that the smoke detector is functional but as its function is to detect smoke from fires, it would not detect or warn of other issues.

The tenant said that there are rodents inside of her rental unit. She testified that she has found droppings as well as ransacked food in her pantry. She submitted into written evidence photographs of torn fabric and paper which she attributed to the rodents. She said that she has contacted the landlord on several occasions but the landlord has taken no steps to address the issue.

The landlord said that he believes there are rodents in the rental building but believes that they were attracted to the food and rock salt stored in the rental unit by the tenant. The landlord testified that he had a pest control company examine the rental building and was told that while work could be done, rodents generally return if there is access to exposed foodstuffs. The landlord said that he has not taken steps to have the rodent problem addressed as he believes it would be futile so long as the tenant continues to reside in the rental unit in its current condition, attracting pests into the building.

The tenant said that there is insufficient outdoor lightning near the entrance to the rental unit. The landlord testified that the rental building is equipped with motion sensor lights. The tenant said that motion sensors are slow to activate and she is concerned that the lack of light will allow large animals like bears and wolves to roam freely near the rental building.

The tenant said the heating system for the rental unit has malfunctioned in the past and the landlord was slow to address the issue. The tenant testified that the heating system appears to be functioning as of the date of the hearing. The landlord testified that there have been instances where the heating system broke down but he addressed the issue and had repairs made in a reasonable amount of time.

The tenant testified that the wall of the furnace room is exposed with no drywall covering the insulation. She said that she is concerned that rodents will use the area to access the rental unit and that it is unsafe. The landlord testified that the exterior walls of the area are made of concrete and does not require drywall on the interior.

The tenant characterized the landlord as rude and abusive. She said that she feels she is being taken advantage of in many respects. She said that she has little options for alternate accommodations.

The tenant said that she had two vehicles and while a parking space was provided by the landlord for one vehicle she was unable to park her second vehicle near the rental

unit. She said that the landlord restricted her from parking the second vehicle on the street. The tenant said that because of the landlord's demands she gave away her second vehicle. She believes that if she had placed the vehicle up for sale, it would have sold for about \$1,500.00.

The tenant claims the amount of \$1,000.00 for furniture which she testified she was unable to store in the rental unit and had to give away or discard.

The tenant testified that she has not vacated the rental unit but expects that if she were to do so the moving cost would be \$700.00 and claims that amount.

The tenant testified that the rodents have destroyed \$1,000.00 of her personal belongings including clothing, food and papers. The tenant testified that she cleans her home regularly because of the rodents and believes that her time cleaning and the cleaning materials would be of \$1,000.00 value.

Analysis

Section 32 of the *Act* sets out an obligation on both the tenant and landlord to maintain a rental unit in a reasonable state of health, cleanliness, safety and sanitary standards.

Based on the evidence, I find it appropriate to issue a repair order to deal with the rodent infestation. I accept the undisputed evidence of the parties that the rental unit is currently plagued by rodents. While the landlord testified that he was advised that rodents are attracted to food and would continue to attempt to gain entry even if pest control work is done, I do not find this to be a sufficient reason not to take reasonable steps at this time to address the issue. The landlord blames the tenant for attracting the rodents but I find there is insufficient evidence that the tenant did not keep the rental unit in reasonable condition. It is unreasonable to expect the tenant to not have any food in the rental unit or rock salt for use on roads during the icy winter months. I find there is insufficient evidence to show that the tenant did not store these items in a reasonable manner so that she is responsible for the rodent problem. Accordingly, I order that the landlord hire a pest control company to address the rodent issue in the rental unit.

I find there is insufficient evidence in support of the other items for which the tenant is seeking repairs.

I accept the landlord's evidence that there is a functioning smoke detector in the rental unit. A smoke detector's function is to detect the smoke caused by fires and other

issues would not be detected. The tenant provided inconsistent testimony, saying at various times that the rental unit required an alarm unit that would detect smoke, carbon monoxide or natural gas. I find that it is unreasonable to expect a landlord to install alarms to safeguard the rental unit from all possible danger. I accept the landlord's testimony that there is a functioning smoke detector that is inspected and maintained regularly. I find that the landlord has met the obligations under section 32 of the Act to maintain reasonable health and safety standards.

I find that the tenant has provided insufficient evidence to support the request for additional lightning outside the rental unit. I accept the parties' evidence that the motion based exterior light provides reasonable illumination when activated. I do not find there to be sufficient evidence that the lights are insufficient or that they are not activated in a reasonable amount of time. I find that it is reasonable that illumination is available when someone approaches the rental building and off at other times. I do not find the tenant's argument that the cover of darkness attracts large animals near the rental unit to be credible or reasonable.

I accept the parties' testimony that the heating system is currently functioning without issue. As such I see no need for a repair order.

I accept the landlord's evidence that the furnace wall does not require drywalling as the exterior is concrete. I find that the tenant has provided insufficient evidence that this is a deficiency in the rental unit required repairs. I do not find the tenant's claim that the lack of drywalling would allow rodents to enter the rental unit to be credible. I do not find it reasonable to demand drywalling in areas of the rental unit such as the furnace room which is not normally an area of a rental unit that would be used as living space.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the Act, regulations or a tenancy agreement. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Pursuant to section 7(2) of the Act the claimant must take reasonable steps to attempt to mitigate the loss suffered.

I find that the tenant has not provided sufficient evidence in support of her monetary claim. The tenant gave away her second vehicle and excess furniture as she claimed the landlord would not permit her storage space. The tenant could have stored her

belongings in a commercial storage space, with a friend, or otherwise have made accommodations. The tenant chose to give her items away rather than attempt to sell them. There is no obligation under the Act, regulation or tenancy agreement for the landlord to provide storage space for the tenant beyond what she contracted for in the tenancy. The tenant has not provided sufficient evidence to show that she had no alternative but to give away her possessions because of the landlord's breach of the Act, regulations or tenancy agreement. Therefore, I find that the tenant has no basis for a claim of damages or loss for giving away her excess belongings and dismiss this portion of her claim.

As the tenant has not moved out of the rental unit she has not incurred moving costs and there is no loss under this head. Accordingly, I dismiss the tenant's claim under this head.

I find there is insufficient evidence to support the tenant's claim for loss from the rodent infestation. The tenant did not provide any receipts, invoices, or list of items that have been damaged due to the rodents. The tenant submitted into written evidence few photographs of what appears to be torn tissue paper and a bag of torn open food. I find this to be insufficient evidence that there has been a loss due to rodents. The tenant claims that she is cleaning the rental unit because of the rodents but failed to provide any details or written evidence in support. The tenant failed to support her monetary claim with evidence of the hours of extra cleaning required, the nature of the cleaning or how it would be in excess of what she would normally be expected to do. Even when she was asked about the details of the cleaning she could not provide an estimate of hours worked or specific tasks she performed. I find that the tenant has provided insufficient evidence in support of her monetary claim and dismiss the tenant's claim accordingly.

I find there is insufficient evidence to support the tenant's claim for damages for harassment and emotional abuse. The tenant submitted into written evidence copies of text message exchanges between the landlord and herself. While I find that both parties were aggressive in their written exchange I do not find it to have been harassment or abuse. The tenant testified vaguely about how the current tenancy causes her anxiety and stress. She attributes the discomfort she has to the landlord. However, I do not find that there is sufficient evidence that the volume or nature of the interaction between the parties has been beyond what a reasonable person would expect so as to become harassment or abuse. Accordingly, I dismiss the tenant's claim.

Conclusion

I order the landlord to hire a pest control company to address the rodent issue in the rental unit.

I dismiss the remainder of the tenant's application.

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: June 5, 2017

Residential Tenancy Branch