



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AFFORDABLE HOUSING SOCIETIES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MND, FF

Introduction

The landlord applies to recover damages for a portion of the cost of repair to the residential premises caused by water damage from the fire sprinkler system in the building having been activated as the result of a fire in the tenant's rental unit.

Both parties attended the hearing, the landlord by its representatives, and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Is the tenant responsible for the cost to repair the damage?

Background and Evidence

The rental unit is a two bedroom apartment in an eight storey apartment building.

The tenancy started in May 2010. The current monthly rent is \$1650.00. The landlord holds a \$712.50 security deposit.

On October 4, 2016 there was a fire in the tenant's unit. The fire department later determined that the fire started in the tenant's computer speaker. No one was home at the time. The fire was fierce enough to activate the fire sprinklers in the ceiling of the apartment.

The sprinklers sprayed water in the apartment until the fire department arrived and turned them off.

By that time significant water had flowed into the apartment and the apartments below.

The landlord's representative Mr. T. testified, and it was not disputed, that the cost to repair the water damage was over \$95,000.00. The landlord had to pay \$10,000.00 of that amount as the insurance deductible and seeks to recover it from the tenant.

There was evidence of an attempt to negotiate a settlement of this matter before the hearing but, ultimately, none was reached. I give no consideration to anything that might have been seen as an admission made in the course of those negotiations.

The landlord's representatives testified to the effect that the tenant should not have left his computer speaker plugged in and charging. They intimate that everyone is aware that a charging battery can burst into flames.

The tenant argues that he has done nothing wrong. He had no warning that the speaker might cause a fire. Additionally, he says that since 2015 the building code requires the landlord to install breaker electrical outlets and had such an outlet been installed in the room where the speaker was plugged in, there would not have been a fire.

In response Mr. T. for the landlord says the building was constructed well before 2015 and there was no such requirement back then. In any event, he says, the building code now only requires such outlets in bedrooms and the tenant's computer speaker was not in a bedroom.

It should be noted that the tenant had filed and served documentation on the landlord but that documentation had not reached this arbitrator's file. In such circumstances it is this arbitrator's practice to proceed with the hearing and have relevant documents described. If it is deemed necessary to view the document, a decision is delayed until receipt and examination of the actual document.

This decision was rendered orally after the end of its evidentiary portion. After the decision the tenant complained that his documents had not been reviewed by this arbitrator.

At the start of the hearing the parties were informed that when they give evidence they must go through their documents and identify each one so that it can be determined to be a relevant and admissible document. They were given a second caution before

giving testimony to be sure to go through their documents during their testimony. The tenant during his testimony did not refer to any document that he had filed, other than a reference to a building code.

Analysis

The circumstances of this matter are very unfortunate. I am satisfied that the tenant had no forewarning of any fault in his computer speaker. I do not accept the landlord's suggestion that the tenant was somehow at fault for leaving the speaker plugged in. I consider it highly likely that most people would leave such a speaker plugged in.

The tenant was not negligent. However, his responsibility to the landlord is found in his contractual obligations.

Section 8(2) of the Standard Terms, incorporated by law into every tenancy agreement by s. 12 of the *Act* and found as a Schedule to the Residential Tenancy Regulation, states:

(2) Tenant's obligations:

(a) The tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. **The tenant must take the necessary steps to repair damage to the residential property caused by the actions or neglect of the tenant or a person permitted on the residential property by that tenant.** The tenant is not responsible for repairs for reasonable wear and tear to the residential property.

(b) If the tenant does not comply with the above obligations within a reasonable time, the landlord may discuss the matter with the tenant and may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the cost of repairs, serve a notice to end a tenancy, or both.

(emphasis added)

In this case I find that the damage was caused by the tenant's computer speaker starting on fire. He is responsible for damage that might be caused not only by his hands but by his possessions and belongings as well.

Failure by him to repair the damage caused by himself or his possessions is a breach of his tenancy agreement. Fault, neglect or inadvertence is not a factor.

“Non-performance of a contract in any way, or to any degree, and whether deliberate, accidental, through negligence, or unintended, amounts to a breach of contract, unless excused, justified, or otherwise dealt with by law.” (e.g. under the doctrine of impossibility or frustration...),

- *The Law of Contract*, Fridman, 3d (1994) at p. 557

Conclusion

TEXT

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: September 19, 2017

Residential Tenancy Branch