



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, RR, FF

Introduction

This hearing was convened in response to an application filed by the tenant on April 16, 2018 seeking Orders under the *Residential Tenancy Act* (the Act) as follows:

- A Monetary Order for compensation for loss under the Act, regulation or tenancy agreement – Section 67
- An abatement of rent for repairs, services or facilities agreed upon but not provided – Section 65
- Recover the filing fee – Section 72

Both parties participated in the hearing and provided testimony. The parties acknowledged the exchange of evidence as provided to me. The parties were provided opportunity to mutually settle their dispute to no avail. Therefore, the hearing proceeded on merits of the tenant's claims.

The parties were provided opportunity to present all relevant evidence and testimony in respect to their claims and fully participate in the conference call hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

This tenancy started November 01, 2017 and continues. The parties agree there was a

written tenancy agreement of which I do not have benefit. Rent of \$1980.00 per month is payable in advance on the first of each month.

The parties agree that on January 13, 2018 a water ingress incident not of the tenant's doing resulted in a portion of the rental unit being rendered unusable, and that it included the master bedroom and its closet area, the main bathroom of the rental unit, and access of the rental unit deck was restricted by the workers doing the ensuing remediation of the rental unit. The tenant seeks compensation for loss of use and inconvenience, or loss of enjoyment, from January 13, 2018 to April 06, 2018, at which point the rental unit was rectified. The landlord does not agree with the tenant's claim of almost \$3000.00.

The parties agreed that during repairs to the unit they discussed compensation, or rent abatement to the tenant as a result of loss of the unit from the water ingress and the resulting work until its remedy on April 06, 2018. The parties agreed that they arrived at agreement respecting the loss and compensation to the tenant as a result. The landlord provided evidence of an e-mail offering the tenant an abatement of rent in the amount of \$660.00 per month (one third of the payable rent) to which the tenant testified they had agreed as full and final settlement of their loss in this matter. The landlord provided the e-mail sent to the tenant on March 06, 2018 and the tenant's subsequent response to the e-mail stating they agreed to the landlord's offer in its entirety. The parties agreed that to date the tenant has received compensation in the sum of \$1150.00.

Analysis

On preponderance of the evidence and primarily the parties' testimony, I find as follows.

I find that the tenant suffered a loss of use of the rental unit resulting from a water ingress incident, described by the parties as a flooding of the unit. The parties testified they arrived at agreement respecting compensation to the tenant for their loss, as reflected by their e-mail correspondence. I find that oral and written agreements are valid and may be relied upon and may also be enforceable. I find the landlord offered the tenant compensation in the amount of "\$660.00 a month until the day it is fully fixed", with which the tenant agreed, and further agreed it to be as full and final compensation of all loss in this matter. I find that a reasonable interpretation of the landlord's offer is that the tenant would be compensated the equivalent of \$660.00 per month, or a reduction of one third rent, from the day of the tenant's loss to the day of the completion of the remedial work to the rental unit. Therefore, I find that the tenant is

due compensation, as agreed by the parties, in the amount equivalent to one third rent times 2.66 months, or;

$$\mathbf{\$660.00 \times 2.66 = \$1755.60}$$

Given that the tenant has already been compensated the sum of \$1150.00, I find that the tenant is further owed the difference of their compensation and their agreed entitlement in the amount of **\$605.60**. As the tenant has been in part successful in their claim they are entitled to recover their filing fee of \$100.00, for a total award of **\$705.60**, without leave to reapply.

Conclusion

The tenant's application in relevant part is granted.

I Order that the tenant may reduce a future rent to the landlord by **\$705.60** in full satisfaction of their claim in this matter.

This Decision and Order is final and binding.

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 14, 2018

Residential Tenancy Branch