Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Code RR, ER, MNDC

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the "Act"), for a monetary order for damages or other money owed, for emergency repairs, to be allowed to change the locks, to suspended or set condition on the landlord and to recover the filing fee.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Should the landlord be ordered to make emergency repairs for health and safety? Should the tenants be authorized to change the locks?
Should the landlord rights to access the premises be suspended?
Are the tenants entitled to monetary compensation?

Background and Evidence

The parties agreed that they entered into a fixed term tenancy which began on June 16, 2018, and was to expire on May 31, 2019. Rent in the amount of $2,350.00 was payable on the first of each month. The tenants paid a security deposit that was equal to half a month's rent.

The tenants testified that within a few days of moving in the rental unit they discovered small black particles in the water. The tenant stated they informed the landlord that this was a health

and safety risk. The tenant stated that the landlord sent a plumber in to look at the problem and all they did was fill a glass jar with water, and they were told that if they thought there was something wrong with the water that they should have the water tested. The tenants stated that they did not have the water tested.

The tenants submit that the landlord or the landlord's agent has entered their property, parking their car in front of their garage blocking it, and making noise by knocking on the door and ringing the bell and has threatened them.

The tenants submit that the landlord or the landlord's agent has violated their loss of quiet enjoyment which included, entering the front yard without their permission, knocking on the door and ringing the bell, and wasting a significant amount of the tenants time debating whether repairs are to be done.

The landlords testified that the tenants is claim is outrages, as they were first seeking $28,000.00 and then changed it to $68,492.00, for residing in the premises for less than thirty days.

The landlord testified that they had the water inspected by their plumber and there is nothing wrong with the water, which the water is provided by the city that they reside within. The landlord stated that the tenants are constantly asking for repairs which they have made or do not needed and want money. The landlord stated they have done everything that was reasonable but the tenants still are not happy.

The landlord testified that if the tenants are unhappy with the rental unit that they would agree to let the tenant's out of the fixed term agreement.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenants have the burden of proof to prove their claim.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

I accept the evidence of the tenants that they found small black particles in their water; however, that does not prove the water is unsafe or undrinkable and I find it highly unlikely as the water is provided by the city and is regulated.

I have review the tenants' video, the water appears too been clean. While the photograph shows some debris in the standing water that simply could be from the tenants cleaning or other issues such as the city flush the waterline. It does not prove the water is unsafe from the actions of the landlord.

Further, the landlord had the water inspected by a plumber who found nothing wrong with the water. I find the tenants have failed to prove a violation of the Act by the landlord.

I find the balance of the tenants claim frivolous and without merit. The landlord or the landlord's agents are entitled to make repairs within a reasonable timeframe, if they determine it to be appropriate.

Further, I find it is unreasonable that the tenants show a picture of a cobweb as evidence of a health and safety issue. Spiders are common and this is not a health and safety issue. The tenants could simply brush the cobweb away solving this issue on their own.

Furthermore, the landlord is allowed to access the property without notice to the tenants when they are dealing with issues of the tenancy.

The only time the landlord is required to give the tenants 24 hours' notice is when the landlord or their agent is entering the rental unit, for inspection or general repairs. When proper notice is give the tenants cannot refuse access and are not required to be home.

Emergency repairs do not require the landlord to give any notice to the tenants.

Further, the landlord has the right to determine what and if repairs are required. Simply demanding repairs or debating with the landlord is not ground for compensation.

Based on the above, I find the tenants have not proven any violations of the Act, by the landlord. I find the tenants' application is frivolous and without any merit.

Should the tenants want to be released from the fixed term agreement if find it appropriate to make the following order.

The tenants have 60 days from the date of this hearing (July 25, 2018) to accept the landlords offer to end the tenancy by mutual agreement. This must be done in writing with a date that the tenants will be vacating. The tenants must ensure that they give the

landlord at least 30 day notice of vacating, if this offer to end the tenancy is accepted within 60 days. This will allow the landlord sufficient time to find a new renter.

Should the offer to end the tenancy not be accepted within the 60 days the fixed term agreement remains in place, unless the parties agree to end the tenancy by mutual agreement at a later date.

The tenants are cautioned that if they appear at any future hearing, claiming a health and safety issue, such as these, that they must be prepared to show that they have had a health and safety officer, or their equivalent inspect the issue and provide a written report for the Arbitrator to review and consider.

The tenants' application is dismissed in its entirety without leave to reapply.

Conclusion

The tenants' application is dismissed.

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: July 26, 2018

Residential Tenancy Branch