



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, ERP, RR, FFT

Introduction

On December 13, 2018, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an order for the Landlord to comply with the Act, an order for emergency repairs, a reduction of rent, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Landlord and Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The Tenant testified that she received the documentary evidence provided by the Landlord; however, admitted that she did not serve the Landlord with her documentary evidence.

The Landlord stated he did not receive an evidence package from the Tenant and declined to accept the Tenant’s evidence into this hearing. The Tenant requested an adjournment in order to serve the Landlord her evidence; however, the Landlord was ready and wanted to proceed with the hearing. I find that the Tenant had the opportunity but failed to serve her evidence package to the Landlord in accordance with the Act and the Rules of Procedure. As a result, the Tenant’s evidence was excluded from the hearing and the hearing proceeded as scheduled.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter

Section 63 of the Act allows an Arbitrator to assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a Decision and include an Order.

Accordingly, I attempted to assist the parties to resolve this dispute by helping them negotiate terms for a Settlement Agreement with the input from both parties. The parties could not find consensus on the terms of a Settlement Agreement; therefore, the following testimony and evidence was heard, and a Decision made by myself (the Arbitrator).

Issues to be Decided

Should the Landlord be ordered to comply with the Act, in accordance with Section 62 of the Act?

Should the Landlord be ordered to complete emergency repairs, in accordance with Section 62 of the Act?

Should the Landlord be ordered to reduce the rent, in accordance with Section 65 of the Act?

Should the Tenant be reimbursed for the cost of the filing fee, in accordance with Section 72 of the Act?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

The Landlord and the Tenant agreed on the following terms of the tenancy:

The one-year, fixed term tenancy began on August 1, 2018. The monthly rent is \$2,850.00. The Landlord collected a security deposit of \$1,425.00 and a pet damage deposit of \$500.00.

The Tenant testified that she noticed mice in the rental unit in October 2018. She notified the Landlord and exterminators attended the unit on October 11, 2018 and November 27, 2018. The Tenant and her witness stated that there are still mice throughout the rental unit and that the mice are leaving their droppings in various rooms, cupboards and in the venting for the house. The Tenant said that the mice have been causing damage to her food products, furniture and several other items in the house.

The Tenant stated that she called the exterminators to attend a third time at the end of December and all they did was drop off more traps.

The Tenant stated that she has been following the recommendations of the exterminators by keeping the exterior doors shut in the house and covering up the dog food at night with foil. She stated there have been no mouse droppings near the dog's food.

The Tenant is requesting that the Landlord be ordered to address the infestation of mice and is also requesting a reduction in rent based on the ongoing number of mice, the damage they are causing and the affect they are having on her quiet enjoyment of the rental property.

The Tenant testified about a secondary issue regarding the Landlord refusing to address leaky faucets and a leak around the bathtub that is causing mold to grow. The Tenant stated that she has had correspondence with the Landlord about the mold and that they refuse to address the issue. She said the smell of the mold is becoming strong enough to affect her ability to live comfortably in the unit.

The Landlord testified that they provided a mouse free rental unit at the beginning of the tenancy. He acknowledged that there is currently a problem with mice in the rental unit. When the Landlord learned of the issue, he immediately responded by having an exterminator attend to set up traps and distribute bait. The Landlord supplied invoices from two different exterminator companies and stated that the companies both recommended that the Tenant keep the dog food away from the mice and to keep the doors closed. The Landlord stated that the Tenant has not been doing this and that this has been contributing to the problem.

The Landlord stated that the extermination of the mice can take some time and that they have given permission to the Tenant to call the exterminator back to reattend if the issue isn't resolved.

The Landlord stated that he has not observed any mold in the bathroom of the rental unit and has addressed the few issues that the Tenant has raised about leaks and sealing the garage door.

Analysis

Upon review of the testimony and evidence provided, I find that the Tenant failed to provide sufficient evidence to demonstrate that the Landlord has not been complying with the Act. In his undisputed testimony, the Landlord stated that he provided a mouse-free rental unit in August 2018. There was no evidence provided as to who was at fault regarding the current mouse problem; however, I find that the Landlord has shown diligence by responding promptly and properly by having two professional exterminators attend to treat the rental unit. As a result, I dismiss the Tenant's claim to order the Landlord to comply with the Act.

I find that the Tenant did not identify any emergency repairs that required a response by the Landlord. The Tenant provided testimony about leaking faucets, a leak in the bathroom that was causing a mold issue and the mouse problem. The Landlord testified that he has actively responded to the mouse problem, addressed the leaking faucets and did not identify any mold in the bathroom. Section 33 of the Act provides examples of emergency repairs and the responsibilities for both the Tenant and the Landlord. I find that the Tenant failed to provide sufficient evidence that that Landlord is required to complete emergency repairs and as such, I dismiss this part of the Tenant's claim.

Section 27 of the Act authorizes the reduction of rent when a landlord terminates or restricts a service or facility. Section 28 of the Act provides guidance in relation to the tenant's entitlement to quiet enjoyment of the rental unit. Section 32 of the Act sets out a landlord's (and tenant's) obligations to repair and maintain a rental unit. If a tenant suffers a loss due to the landlord's breach of these sections, the tenant may apply for compensation.

In this case, the Tenant made a claim for a reduction of rent due to the problem she is having with mice and the allegation that the Landlord has not responded appropriately to several maintenance issues. The Tenant's documentary evidence was excluded from the hearing, which may be a factor in my finding that the Tenant failed to establish a loss of a service, facility or quiet enjoyment to a point where her future rent should be reduced. I also accept the Landlord's testimony that the eradication of mice is a process and may take some time. I dismiss this part of the Tenant's claim.

As the Tenant's Application was unsuccessful, I decline to award compensation for the filing fee, in accordance with Section 72 of the Act.

As this tenancy will continue, I recommend to all parties that they work together to resolve the ongoing issues in a respectful manner and when required, to communicate in writing to ensure clear understanding and as a means to keep track of their interactions.

Conclusion

I dismiss 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: January 09, 2019

Residential Tenancy Branch