



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, RP, MNSD, FFT

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order requiring the landlord to comply with the Act, the Regulations, or the tenancy agreement, for an order requiring the landlord to make repairs to the rental unit, and for recovery of the filing fee paid for this application.

The tenant and the landlord attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the tenant's evidence.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Preliminary and Procedural Matters

In addition to her request for an order for repairs to the rental unit and for the an order requiring the landlord to comply with the Act, the tenant originally filed for monetary compensation of an unknown amount, with an unexplained listing on the monetary order worksheet, dated June 3, 2019, of "rental agreement" for \$1,800.00 per month.

The tenant then filed an amended application on or about June 14, 2019, for a monetary claim of \$13,739.01. Included in that monetary claim was a quote for moving costs. The tenant also in her evidence sought a return of her security deposit.

The tenant was informed that her amended monetary claim would not be accepted as it was not filed in time to comply with 4.3 of the Rules. While the amendment was filed outside of 14 days, when service of the amendment on the landlord was by registered mail, service was deemed served five days later, which is less than 14 days, as required by 4.6 of the Rules.

In addition, I explained to the tenant that her request for a return of her security deposit was premature, as the tenancy is currently ongoing, and that issue was an end-of-tenancy matter.

In addition, the tenant was informed that I have determined that the portion of her application dealing with a claim for monetary compensation is unrelated to the primary issues of her request for the landlord to comply with the Act and for repairs. As a result, pursuant to section 2.3 of the Rules, I have severed the tenant's Application and dismissed that portion, **with leave to reapply**.

The tenant also submitted that she received the landlord's evidence late, six days prior to the hearing. In response to my inquiry, she said that she did have time to review and consider the evidence, but did not have adequate time to prepare a response. The tenant did not explain why she did not have enough time or what type of response she would have been able to submit in response to this evidence.

I have reviewed the landlord's evidence and have found that the relevant evidence was largely email and text message communication between the parties. The other piece of relevant evidence included a statement from a pest control company, which was discussed in the hearing. I have determined that the tenant would not be prejudiced with the acceptance of the landlord's relevant evidence.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to comply with the Act and an order requiring the landlord to make repairs to the rental unit?

Is the tenant entitled to recovery of her filing fee?

Background and Evidence

The written tenancy agreement shows that this tenancy began on January 15, 2019, that monthly rent is \$1,800.00, and the tenant paid a security deposit of \$900.00 on or about December 16, 2018. The rental unit is a single family dwelling, formerly the home of the landlord.

In support of her application, the tenant said that the issue involving a request for repairs was due to the mouse/rodent infestation at the rental unit.

The tenant agreed that an exterminator had been to the rental unit and dealt with the rodent issue. The tenant further stated that she was afraid that the extermination was only a temporary solution, as the rodents will come back due to unpatched holes.

The tenant confirmed that the landlord had made her aware of a potential mouse issue when she moved in, but the landlord did not take care of the problem. The tenant said she thought there would be an occasional mouse issue, but not the consistent problem it has turned out to be.

The tenant submitted that the situation was exacerbated when she discovered what she believed was a rat in the home and found rodent feces on her kitchen counter tops.

Landlord's response-

The landlord submitted that the tenant was informed prior to moving in that as it was an old house, that there would be an occasional mouse and the tenant said she would deal with the matter. The landlord submitted that she and the tenant often communicated when a mouse appeared in the house and the tenant was happy to deal with it herself. The landlord submitted that the tenant even sought guidance on what kind of traps and bait worked best.

The landlord said she told the tenant that she would be reimbursed for any costs in purchasing traps and that she kept following-up with the tenant.

The landlord submitted that she absolutely would have hired an exterminator had the tenant ever mentioned the severity of the problem. The landlord submitted that she did not realize how bad the situation had become until the tenant filed for dispute resolution, at which time she hired the pest control company.

In response to my inquiry, the tenant confirmed that she had not specifically made a written request to the landlord for an extermination company to attend to the issue.

The relevant evidence of both parties included extensive email and text message communication between the parties. The tenant's relevant evidence also included photos of mouse traps and her kitchen countertops.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 32 of the Act provides that a landlord must provide and maintain a residential property in a state of decoration and repair that complies with health, safety and housing standards required by law and is suitable for occupation by a tenant when considering the age, character and location of the rental unit.

Where a tenant requests such repairs, I find the landlord must be afforded a reasonable amount of time to take sufficient action.

In this case, due to the parties' confirmation, I cannot conclude that the landlord was negligent or violated the Act regarding her requirements of addressing the required repairs, as there was no proof that the tenant had notified or requested such repairs of the landlord.

I would expect the tenant, if any verbal requests had been ignored, would put her concerns or requests to the landlord in writing, with proof that the landlord had been given the requests, in order to put the landlord on notice.

If the tenant had shown proof that the landlord had been requested to make the repairs, with a subsequent lack of response, I would be in more of a position to order the landlord's compliance.

What I find in this case, is that the evidence shows there was an agreement between the parties that the tenant would address any mouse issue, but that with the filing of this application for dispute resolution, that agreement had been withdrawn by the tenant.

I find the evidence also shows the landlord acted within a reasonable time after being notified that the tenant wanted the landlord's intervention with the mouse/rodent issue

by hiring a pest control company. The tenant confirmed that the issue had abated after the company provided their services.

Due to the above, I find the tenant submitted insufficient evidence that the landlord has failed to comply with the Act by not taking reasonable measures to address the tenant's repair requests.

I therefore dismiss the tenant's request for an order for the landlord's compliance with the Act and for an order for repairs.

As I have dismissed the tenant's request for such repairs and orders for the landlord, I therefore dismiss her request for recovery of the filing fee.

Conclusion

For the reasons stated above, the tenant's application for an order requiring the landlord to make repairs and for the landlord's compliance with the Act is dismissed.

The tenant's request for recovery of her filing fee is dismissed.

The portion of the tenant's application seeking monetary compensation was severed and dismissed, with leave to reapply.

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 3, 2019

Residential Tenancy Branch