



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Code RR FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on December 17, 2019 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that rent be reduced for repairs, services or facilities agreed upon but not provided; and
- an order granting recovery of the filing fee.

The Tenant attended the hearing on his own behalf and provided affirmed testimony. The Landlord did not attend the hearing.

The Tenant testified the Notice of Dispute Resolution Proceeding package was served on the Landlord by registered mail on December 21, 2019. A photograph of an envelope bearing registered mail postage labels was submitted in support. Pursuant to sections 89 and 90 of the *Act*, documents served by registered mail are deemed to be received five days later. I find these documents are deemed to have been received by the Landlord on December 26, 2019. The Landlord did not submit documentary evidence in response to the Application.

The Tenant was given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order that rent be reduced for repairs, services or facilities agreed upon but not provided?
2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

The Tenant testified the tenancy began in or about 2013 and continues on a month-to-month basis. Rent in the amount of \$1,800.00 per month is due on the first day of each month. The Tenant testified that he paid a security deposit but was unable to recall the amount.

The Tenant seeks an order that rent be reduced for repairs, services or facilities agreed upon but not provided. Specifically, the Tenant testified that a flood originated in an adjacent unit on or about August 26, 2019. He testified that his rental unit was in various states of repair until mid-December 2019 and that no contractors have returned to the rental unit since that time. The Tenant testified that a terrible smell was particularly noticeable in the month after the flood occurred. The Tenant suggested the remediation work rendered his rental unit 50% unlivable.

In support of the claim, the Tenant submitted a Site Safety Assessment dated August 26, 2019 that was posted near the door of the adjacent unit where the flood originated. It which indicated the presence of bodily fluids and sewage, and slippery surfaces. In addition, the Tenant submitted photographic images of his rental unit depicting:

- the bedroom with furniture and flooring removed;
- the living room with flooring removed;
- a wall with drywall cut out; and
- the kitchen with countertops covered in plastic, appliances and flooring removed.

Further, the Tenant submitted a copy of a letter sent to the Landlord on November 13 and December 4, 2019, describing the issue and advising the Landlord of his intention to proceed with a dispute resolution hearing.

The Landlord did not attend the hearing to dispute the Tenant's evidence.

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 65(1) of the *Act* permits the director to reduce rent by an amount that is equivalent to a reduction in the value of a tenancy agreement. In this case, I am satisfied that the Tenant has suffered a loss in the value of the tenancy agreement due to the flood and resulting construction in the rental unit. After considering the evidence and submissions of the Tenant, I find the Tenant is entitled to a monetary award for loss of use of the rental unit in the amount of \$1,800.00, which represents a 25% loss of the value of the tenancy due to the flooding and remediation work for a period of four months. Although the Tenant suggested his loss was approximately 50% of the value of the tenancy, I have awarded less because he confirmed that he continued to reside in the rental unit. Having been successful, I find the Tenant is also entitled to recover the filing fee paid to make the Application. Therefore, I find the Tenant is entitled to a total monetary award in the amount of \$1,900.00, which is comprised of \$1,800.00 for the loss of value of the tenancy and \$100.00 in recovery of the filing fee. I order that \$1,900.00 may be deducted from future rent payments at the Tenant's discretion.

Conclusion

The Tenant has demonstrated an entitlement to a total monetary award in the amount of \$1,900.00, which I order may be deducted from future rent payments at the Tenant's discretion.

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: February 25, 2020

Residential Tenancy Branch