



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, MNRT, ERP, RP, PSF, LRE, OPT, OLC

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a Monetary Order for the cost of emergency repairs, pursuant to section 33;
- an Order for emergency repairs, pursuant to section 33;
- an Order that the landlord's right to enter be suspended or restricted, pursuant to section 70;
- disputation of a rent increase, pursuant to section 43;
- an Order of Possession for the tenants, pursuant to section 54;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order for regular repairs, pursuant to section 32; and
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65.

Both parties attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties agree that the tenants personally served the landlord with the tenants' application for dispute resolution sometime between April 2-3, 2020. I find that the landlord was served in accordance with section 89 of the *Act*.

Preliminary Issue- Amendment

The landlord testified that the tenants listed his wife as a landlord; however, she does not own the subject rental property and is not a landlord. The tenants did not dispute the

above testimony. Pursuant to section 64 of the *Act*, I amend the tenants' application for dispute resolution to only list the landlord as the respondent.

Preliminary Issue- Claim Dismissal

Both parties agree that this tenancy has ended, and the tenants testified that they are not seeking an Order of Possession and do not want this tenancy to be reinstated. The tenants testified that they are only seeking a Monetary Order for moving expenses and loss of water at the subject rental property. I therefore dismiss the following claims as the claims are no longer relevant:

- an Order for emergency repairs, pursuant to section 33;
- an Order that the landlord's right to enter be suspended or restricted, pursuant to section 70;
- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order for regular repairs, pursuant to section 32; and
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65;
- disputation of a rent increase, pursuant to section 43; and
- an Order of Possession for the tenants, pursuant to section 54.

Issue to be Decided

1. Are the tenants entitled to a Monetary Order for the cost of emergency repairs, pursuant to section 33 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenants' and landlord's claims and my findings are set out below.

Both parties agree that this tenancy began two to two and a half years ago and has ended. The landlord testified that rent was \$950.00 per month plus \$50.00 per month for the water bill. The tenants testified that rent was \$1,000.00 per month and water was included. Both parties agreed that this was a verbal tenancy agreement.

The tenants testified that the landlord left the country during the fall of 2019 and the winter of 2020 and during this time the water lines at the subject rental property broke and the tenants did not have access to clean water. The tenants testified that the landlord refused to return their telephone calls and refused to repair the water lines. The tenants testified that they were left to repair the water lines and that even with their efforts, they only had clean water for one month during this time.

The tenants testified that they moved out of the subject rental property mid April 2020 because of the lack of water. The tenants testified that they are seeking \$5,000.00 for their moving expenses and \$10,000.00 for the landlord's failure to repair the water lines and the hardship they endured as a result. No evidence other than the tenants' testimony was provided.

The landlord testified that the water lines did not break and are in good working order. The landlord testified that the City turned off the tenants' water on March 31, 2020 because the tenants failed to pay their water bill.

The landlord testified that the tenants verbally informed the landlord in November of 2019 that they intended on moving out in February of 2020 but did not fully move out at that time.

Analysis

Section 67 of the *Act* states:

Without limiting the general authority in section 62 (3) [*director's authority respecting dispute resolution proceedings*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Policy Guideline 16 states that it is up to the party who is claiming compensation to provide evidence to establish that compensation is due. To be successful in a monetary claim, the tenant must establish all four of the following points:

1. a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
2. loss or damage has resulted from this non-compliance;
3. the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and

4. the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Failure to prove one of the above points means the claim fails.

Rule 6.6 of the Residential Tenancy Branch Rules of Procedure states that the standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

When one party provides testimony of the events in one way, and the other party provides an equally probable but different explanation of the events, the party making the claim has not met the burden on a balance of probabilities and the claim fails.

The tenants testified that the water lines were broken. The landlord testified that the water lines were in good working order. Neither party entered physical evidence on the condition of the water lines. As this is the tenants' claim, the burden of proof lies with the tenants. I find that the tenants have not proved on a balance of probabilities that the water lines at the subject rental property were damaged or that the landlord refused to repair them. I therefore dismiss the tenants' monetary claims as both claims are based on a finding that the landlord failed to repair broken water lines.

Conclusion

The tenants' application for dispute resolution is dismissed without 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: May 21, 2020