



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Balsam Investment Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, RR, OLC, PSF, FFT

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant to have the landlord make repairs to the rental unit, for a rent reduction, to have the landlord comply with the Act, to have the landlord provided services or facilities required, and to recover the cost of the filing fee.

The tenant attended the hearing. As the landlords did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered.

The Residential Tenancy Branch Rules of Procedure states that the respondents must be served with a copy of the Application for Dispute Resolution and Notice of Hearing.

The tenant testified the Application for Dispute Resolution and Notice of Hearing were sent by registered mail sent on August 7, 2020, a Canada post tracking numbers was provided as evidence of service.

Section 90 of the Act determines that a document served in this manner is deemed to have been served five days later. I find that the landlords have been duly served in accordance with the Act.

I am further satisfied that the landlords received the tenant's application as they filed evidence in response.

Although the tenant has indicated in their application that they are seeking the landlord to provided service or facilities required. I note this is just a repeat of the request for repairs. Therefore, I dismiss this portion of the tenant's claim.

Issues to be Decided

Should the landlord be ordered to make repairs?
Is the tenant entitled to a rent reduction?

Background and Evidence

The tenancy began on December 1, 2016. Rent in the amount of \$1,570.00 was payable on the first of each month. A security deposit of \$725.00 and a pet damage deposit of \$725.00 were paid by the tenant.

The tenant testified that they have been requesting since August 2019 that the floor be repaired as there were 4 holes cut into the wood. The tenant stated that the landlord has now taken steps to replace the flooring and is expected to be done today. The tenant stated that 95% has been completed and the trim will need to be reinstalled.

The tenant testified that they should be entitled to a rent reduction of \$400.00 per month going back to August 2019 as there were 4 large holes in the wood floor, which was a tripping hazard and was unsightly. The tenant stated that they came to this calculation based on the square footage of the premise. Filed in evidence are photographs of the floor.

The tenant testified that there is also another leak under the kitchen sink. The tenant stated that it may be caused by the garburator, which just might have to be removed or replaced. The tenant stated they do not use it any event.

The tenant testified that during the flooring repair, some of the steel wool was removed, which was installed by the pest control company to restrict the access of mice. The tenant stated they do not have any steel wool and just want to ensure that the landlord or pest control company replace the wool.

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 tenant has 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-complying landlord or tenant must compensate the other for damage or loss that results.

Under section 7(2) of the Act, the party who claims compensation for loss that results from the non-complying party must do whatever is reasonable to minimize the loss.

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.

In this case the tenant indicated that they requested the floor be repaired in August 2019; however, the tenant did not make their application until July 30, 2020. I find the tenant did not do whatever is reasonable to minimize the loss. Therefore, I will only consider compensation from the date the tenant's took steps to mitigate the loss, which was July 30, 2020.

Further, the tenant's application only shows that the total amount claimed was \$500.00, not \$4,900.00 if would be unfair and unreasonable to change the amount claimed in the application as the other party was entitled to receive the full particulars of the claim. This would include the full amount of the claim made against them.

The tenant seeks a rent reduction of \$400.00, while this amount appears to be high as there was no actual loss of use and is primarily cosmetic; however, the landlords did not attend the hearing to submit any testimony on this issue. I can only conclude from their absence that this portion of the tenant's claim is undisputed by the landlord. Therefore, I grant the tenant a rent reduction for August 2020 in the amount of **\$400.00**.

I am not granting any further rent reduction for the flooring as 95% of the work has been completed as of today, September 4, 2020, and it is expected the balance will be done on this day.

In this case, I find it appropriate to make the following orders for repairs.

I order the landlord to ensure the repair to the floor is completed and any trim that was removed replaced. This is to be completed no later than September 15, 2020.

I order the landlord to replace or have their pest control company replace any steel wool that was removed during the repair to the floor. This is to stop rodents from entering the unit. This is to be completed no later than September 15, 2020.

I further order the landlord to inspect and repair the leaking pipe under the tenant's kitchen sink. This is to be completed no later than September 15, 2020.

Should the landlord fail to comply with my above orders the tenant is at liberty to reapply.

I find that the tenant has established a total monetary claim of **\$500.00** comprised of the above described amount and the \$100.00 fee paid for this application.

I authorize the tenant a onetime rent reduction of \$500.00 to be deducted from October 2020, rent in full satisfaction of the award.

Conclusion

The landlord is ordered to make repairs. The tenant is granted a onetime rent reduction from October 2020 rent, in full satisfaction of this award.

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: September 04, 2020

Residential Tenancy Branch