



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR RP FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on April 13, 2021. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant and the Landlord both attended the hearing. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Both parties confirmed receipt of each other's documentary evidence package.

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

Preliminary Matters

During the hearing, the Tenant stated that the repair he was requesting (blind repair) has been completed, and he does not require an order to have the Landlord make the actual repair any longer. At this point, he is only seeking monetary compensation for a rent reduction. I amend the Tenant's application accordingly.

Issue(s) to be Decided

- Is the Tenant entitled to a rent reduction for the issue with the living room blinds?

Background and Evidence

The Tenant stated that monthly rent is set at \$1,195.00, and he has lived in the rental unit since September 1, 2017. The Tenant stated that sometime in May of 2020, the blinds in his living room stopped working properly, and he was unable to raise and lower the blinds for privacy. The Tenant also feels he should be compensated because the Landlord took so long to fix the issue, and did not respect his time when he was scheduling the repairs and the repair visits. The Tenant stated that his unit is on the lower level, and faces the street, which made the loss of blinds more impactful on his use of the interior space.

The Tenant stated that he notified the building manager of this issue right away, and he was told the maintenance worker would come right away to look at it. The Tenant stated that the Landlord repeatedly promised to have the blinds fixed, but failed to do so in a timely manner. The Tenant feels the Landlord did not respect him and take his issue seriously.

The Tenant stated that the blinds were not fixed until January 15, 2021. The Tenant stated that the Landlord (building manager) repeatedly tried to schedule repairs and/or blind measurements but then no one would show up most of the time. The Tenant stated this happened numerous times, where the Landlord would not show up to fix the blinds, but the Tenant stated he could not recall how many times this actually occurred. The Tenant stated that the Landlord entered the unit on at least 3 different occasions to measure the blinds, and each time he had to sanitize the area, because he was worried about COVID. The Tenant stated he also had to stay home while he waited to let the Landlord into the unit to see the blinds, which cost him time.

The Tenant stated he is seeking 100% of his rent back from May 2020, through till January 2021, totalling \$10,855.00.

The Landlord acknowledged that the Tenant made them aware of an issue with the blinds at the end of May 2020. Text messages were provided into evidence. The Landlord stated that he was under the impression the blinds were still partly functioning, so he believes the Tenant would have had some use of the blinds. The Landlord feels the Tenant would not have been impacted that much because his unit does not overlook a main street.

The Landlord stated that they initially ordered replacement blinds from a company in June 2020, and after 2 months of waiting, the Landlord cancelled that order because there were supply issues. The Landlord had no evidence to support that this order was made. The Tenant feels this is not true because the Landlord did not come and measure the window until July sometime.

The Landlord provided a copy of a Home Depot receipt, which shows that the blinds were ordered on August 19, 2020. The Landlord stated that Home Depot also had supply issues, and the blinds did not arrive until December sometime. The Landlord did not provide any evidence to support when the blinds were actually received. The Landlord stated that they proceeded to install them in January, but most of the actual delays in completing the repair was due to supply issues that were out of their control. The Landlord acknowledged that there may have been some communication issues with the on site manager.

The Tenant stated that the building manager told him it arrived in November, and it shouldn't have taken them until January to install it.

Analysis

A party that makes an application against another party has the burden to prove their claim. In this case, the burden of proof rests with the Tenant.

The Tenant is seeking a 100% rent reduction for rent paid between May 2020 and January 2021, totalling \$10,755.00, due to the issues he had with his living room blind, and the Landlord's failure to repair it in a timely and fair manner.

Residential Tenancy Policy Guideline #22 - Termination or Restriction of a Service or Facility states as follows:

C. RENT REDUCTION

Where it is found there has been a substantial reduction of a service or facility, without an equivalent reduction in rent, an arbitrator may make an order that past or future rent be reduced to compensate the tenant.

[...]

Where there is a termination or restriction of a service or facility for quite some time, through no fault of the landlord or tenant, an arbitrator may find there has been a breach of contract and award a reduction in rent.

I note that section 1 of the Act defines a “service or facility” as:

“Service or facility” includes any of the following that are provided or agreed to be provided by the landlord to the tenant of a rental unit:

- (a) appliances and furnishings;*
- (b) utilities and related services;*
- (c) cleaning and maintenance services;*
- (d) parking spaces and related facilities;*
- (e) cablevision facilities;*
- (f) laundry facilities;*
- (g) storage facilities;*
- (h) elevator;*
- (i) common recreational facilities;*
- (j) intercom systems;*
- (k) garbage facilities and related services;*
- (l) heating facilities or services;*
- (m) housekeeping services;*

After considering the evidence and testimony before me, I accept that the Tenant was provided blinds as part of his tenancy, and for an unknown reason the blind in his living room stopped functioning in May 2020. I find there is no evidence to demonstrate that the blind was broken due to misuse or neglect. It appears an internal mechanism failed for an unknown reason. I find the blinds are considered a service or facility under the Act. I find the Tenant has sufficiently demonstrated that he suffered a loss of his blinds from May 2020 through till January 2021. Regardless of whether or not there were supply issues, which prevented the Landlord from repairing the blinds sooner, I find the Tenant is still entitled to compensation for the restriction/termination of the living room blind functionality, as this issue went on for quite some time, and likely resulted in some loss of use/enjoyment of the space, particularly the living room.

That being said, I find the Tenant did a poor job explaining how the actual loss of use of the blinds in the living room impacted his use of the space, and or his enjoyment of the space. Further, the Tenant provided a vague account of how many times he was “lied” to about the blind replacement, and could not recall how many times the Landlord said he was coming to fix the blind, then didn’t. I found this part of the Tenants explanation

unclear. Further, there is no requirement for the Tenant to be present when the Landlord attends the unit to repair the blinds, such that I could find the Tenant is entitled to compensation for having to be present for the scheduled repairs.

In any event, even though the Tenant's explanations about impacts on his tenancy were unclear and vague, I accept that there would have been *some* impact on the Tenant's use of space (loss of privacy etc) and some inconvenience due to having multiple contractors come over many months, through a pandemic period. I also find it likely that the Landlord could have been more communicative, and forthcoming with plans and schedules, in order to mitigate the impacts on the blind issue. Ultimately, given the lack of detail from the Tenant, regarding the timing and quantity of repair visits, the number of failed scheduling attempts, and also the impact on his overall use of the interior space, I find it is difficult to ascertain the actual impact on the tenancy and the reduction in value he would have suffered due to not having a functioning living room blind for several months.

That being said, I note that an arbitrator may award compensation in situations where establishing the value of the damage or loss is not as straightforward:

“Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.

In this case, I find the Tenant's request for a 100% rent reduction is excessive and unreasonable. I find an nominal award of \$500.00 is more appropriate for the issues related to the repair of the living room blinds, which spanned many months.

Pursuant to section 72 of the Act, and given the Tenants were partly successful in this application, I award the recovery of the filing fee paid for this application.

Accordingly, pursuant to section 67 of the Act, I grant the Tenant a monetary order in the amount of \$600.00.

The Tenant is authorized to deduct this amount from a future rent payment.

Conclusion

I grant the Tenant a monetary order in the amount of \$600.00, which may be deducted from a future rent payment.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *ACT Tenancy Act*.

Dated: April 13, 2021

Residential Tenancy Branch