



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, FFT

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on January 07, 2022 (the “Application”). The Tenant applied as follows:

- To reduce rent for repairs, services or facilities agreed upon but not provided
- To recover the filing fee

The Tenant appeared at the hearing. Nobody appeared at the hearing for the Landlord. I explained the hearing process to the Tenant who did not have questions when asked. I told the Tenant they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Tenant provided affirmed testimony.

The Tenant submitted evidence prior to the hearing. The Landlord did not submit evidence. I addressed service of the hearing package and Tenant’s evidence.

The Tenant testified that the hearing package and their evidence were sent to the Landlord, at their address on the tenancy agreement, by registered mail on January 21, 2022. The Tenant had submitted documentary evidence with Tracking Number 989 on it. I looked Tracking Number 989 up on the Canada Post website which shows the package was delivered January 25, 2022.

Based on the undisputed testimony of the Tenant, documentary evidence and Canada Post tracking information, I am satisfied the Landlord was served with the hearing package and evidence in accordance with sections 88(c) and 89(1)(c) of the *Residential Tenancy Act* (the “Act”). Based on the Canada Post tracking information, I find the

Landlord received the package January 25, 2022. I find the Tenant complied with rule 3.1 of the Rules in relation to the timing of service.

As I was satisfied of service, I proceeded with the hearing in the absence of the Landlord. The Tenant was given an opportunity to present relevant evidence and make relevant submissions. I have considered all evidence submitted and all oral testimony of the Tenant. I will only refer to the evidence I find relevant in this decision.

Issues to be Decided

1. Is the Tenant entitled to a reduction in rent for repairs, services or facilities agreed upon but not provided?
2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

A written tenancy agreement was submitted. The tenancy agreement names a different landlord than the Landlord. I asked the Tenant about this at the hearing and the Tenant confirmed the Landlord is the owner of the rental unit and is the landlord. The tenancy started August 01, 2021, and is a month-to-month tenancy. Rent is \$1,850.00 per month due on the first day of each month. The Tenant paid a \$925.00 security deposit.

The Tenant sought a one-time rent reduction of past rent as follows:

- \$100.00 for increased utility bills
- \$185.00 for the second half of rent for October 2021
- \$370.00 for November 2021 rent
- \$185.00 for the first half of rent for December 2021
- Total = \$840.00

The Tenant sought the above based on a leak in the wall of a bedroom in the rental unit.

The Tenant provided written submissions which state as follows. The leak started October 16, 2021. There was a significant water leak whenever it rained, which was often. The Landlord came to look at the leak, plugged in an industrial fan and asked the Tenant to continue to clean up the water coming in and keep the heat on high to dry out

the wall. The Tenant told the Landlord about the affect of the leak and repair of the leak on them.

At the hearing, the Tenant testified as follows. The leak caused a large damp stain on the wall which was unsightly. The Tenant had to continuously mop up water and do laundry related to this. The bedroom was damp and could not be used. The dampness irritated the Tenant's eyes and throat. The industrial fan was loud and disruptive. The carpet in the bedroom was wet and mold grew around the window. The fan and increased heat use increased the Tenant's utility bills. The leak and related issues were not resolved until December 17, 2021.

The Tenant submitted the following supporting evidence:

- Text messages
- Photos
- BC Hydro bills
- Videos

Analysis

Section 65(1)(f) of the *Act* states:

65 (1) Without limiting the general authority in section 62 (3) [director's authority respecting dispute resolution proceedings], if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders...

(f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement...

Section 32 of the *Act* states:

32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 28 of the *Act* states:

28 A tenant is entitled to quiet enjoyment including, but not limited to, rights to the following:

- (a) reasonable privacy;
- (b) freedom from unreasonable disturbance;
- (c) exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with section 29 [landlord's right to enter rental unit restricted];
- (d) use of common areas for reasonable and lawful purposes, free from significant interference.

Policy Guideline 06 deals with a Tenant's right to quiet enjoyment.

I accept the undisputed testimony of the Tenant and based on it, as well as the supporting evidence submitted, I accept the following.

I accept the Landlord breached section 32 and 28 of the *Act* in relation to the leak and repair of the leak. I accept that the leak, and resulting issues, were present from October 16, 2021, to December 17, 2021, which I find to be a lengthy period of time. I accept the affects of the leak, and repairs of the leak, as outlined by the Tenant and find these were more than minor inconveniences.

I accept that the value of this tenancy was reduced due to the leak and repairs of the leak, and the affects these had on the Tenant.

I accept the undisputed position of the Tenant that \$840.00 accurately reflects the reduction in the value of this tenancy taking into account the rent amount, the length of time the leak and related issues were present, the affect the leak and related issues had on the Tenant's use and enjoyment of the rental unit as well as the financial affect on the Tenant.

I accept that the Tenant let the Landlord know about the leak as soon as it occurred and therefore mitigated their loss.

In the circumstances, I am satisfied the Tenant is entitled to \$840.00 as a past rent reduction.

Given the Tenant was successful in the Application, I award them reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the Act.

In total, the Tenant is entitled to \$940.00 and is issued a Monetary Order in this amount.

Conclusion

The Tenant is issued a Monetary Order in the amount of \$940.00. This Order must be served on the Landlord and, if the Landlord does not comply with the Order, it may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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.

Dated: April 05, 2022

Residential Tenancy Branch