



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Introduction

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

- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to make repairs to the rental unit pursuant to section 32;

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to provide testimony, present evidence and to make submissions.

The landlord confirmed service of the tenant's application and evidence submissions. The tenant stated she did not receive the landlord's evidence submissions. The landlord provided proof of service of sending the registered mail package to the tenant and the tenant's previous advocate. The landlord testified the package sent to the tenant was returned to her marked "refused" and the package sent to the advocate was received. Accordingly, I find the tenant to be deemed served with the landlord's evidence package and it was permitted for the purpose of this hearing.

The parties confirmed that the tenant vacated the rental unit on May 7, 2022, therefore the tenant's application for the landlord to make repairs is moot. This portion of the tenant's application is dismissed without leave to reapply.

Issues

Is the tenant entitled to a rent reduction for loss of quiet enjoyment?

Background & Evidence

The rental unit is a basement suite. The tenancy started approximately 14 years ago. The monthly rent was \$560.00. The current landlord just recently purchased the property taking possession December 1, 2022. The landlord resides in the upper suite of the house.

The tenant claims she was left traumatized by the landlord doing major renovations in the upper suite since taking possession of the property. The tenant testified that the renovations were on going for months 4-5 days per week. The tenant claims there was dust and debris falling from upstairs to her closet downstairs. The tenant also stated that her kitchen faucet was not working so she couldn't use it.

The landlord testified that she was doing renovations in the upper suite after taking possession of the property. The landlord testified that the renovation work only happened on specific days as both herself and her contractor helping with the renovations also have a regular job. The landlord submitted a spreadsheet of the hours and days of renovation work for the months of December 2022 and January 2023. The landlord submits that even though the renovation work was for partial hours on the listed dates she was willing to re-imburse the tenant for the full days. The landlord submits that the renovations occurred for a total of 9 days in December 2022 and 9 days in January 2023. The landlord submits that an additional 8 days of renovation work took place in the months of February, March and April 2023 which the landlord is also agreeable to re-imburse the tenant for. The landlord submits she took all steps to minimize the disruption to the tenant, even sending her an email suggesting to work around the tenant's work schedule; however, the tenant did not respond to the e-mail. The landlord submits that as soon as she learned of the debris falling into the tenant's closet, her contractor blocked off a hole that was found in the closet. The landlord testified that the kitchen faucet was repaired as soon as she learned about it.

Analysis

Pursuant to section 28 of the Act, a tenant is entitled to quiet enjoyment of the rental unit including but not limited to rights to the following:

- reasonable privacy;
- freedom from unreasonable disturbance;
- exclusive possession of the rental unit, subject to the landlord's rights contained in section 29; and

- use of common areas for reasonable and lawful purposes, free from significant interference.

Residential Tenancy Policy Guideline #6 “Entitlement to Quiet Enjoyment” provides the following guidance:

In order to prove a breach of the entitlement to quiet enjoyment, the tenant must show that there has been substantial interference with the ordinary and lawful enjoyment of the rental premises. This includes situations in which the landlord has directly caused the interference or was aware of the interference but failed to take reasonable steps to correct it. It is also necessary to balance the tenant’s right to quiet enjoyment with the landlord’s right and responsibility to maintain the premises. Temporary discomfort or inconvenience does not constitute a basis for a breach under this section.

I find the tenant provided insufficient evidence that there has been a substantial interference with her ordinary and lawful enjoyment of the rental premises. The tenant provided no evidence of the extent of the noise disruptions or any documented dates and times. The tenant also provided no breakdown or calculation of how she arrived at a figure of a rent reduction equivalent to half the monthly rent. In the absence of any corroborating evidence from the tenant, I accept the landlord’s spreadsheet evidence to be a credible reflection of the actual dates and times of renovation work. I also find that it is necessary to balance the landlord’s legal right to perform renovations on the newly purchased property. The tenant provided no evidence that the renovation work was taking place outside of times or days permitted by city by-laws.

Regarding the kitchen faucet, again I find the tenant provided no evidence to support when she first notified the landlord of the faucet issue or any evidence of the duration of not having use of the faucet or any calculation for any breakdown of any losses suffered as a result.

Accordingly, I find the tenant is entitled to a total re-imbursement of 26 days for loss of quiet enjoyment which was agreed to by the landlord in the hearing.

The tenant is granted a monetary order in the amount of \$485.33 (\$560.00 / 30 days per month average x 26 days).

Conclusion

Pursuant to section 67 of the *Act*, I grant the tenant a Monetary Order in the amount of \$485.33. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court 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 *Residential Tenancy Act*.

Dated: May 16, 2023

Residential Tenancy Branch