



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes Tenant: CNL-4M, RR, RP, OLC, FFT
Landlord: OPB, OPM

Introduction

This hearing was reconvened from a hearing on August 28, 2023 regarding the parties' applications under the *Residential Tenancy Act* (the "Act").

An interim decision and consent order of possession were issued on August 28, 2023.

This hearing dealt with the Tenant's remaining claims for:

- an order to reduce rent by \$500.00 per month for repairs, services or facilities agreed upon but not provided, pursuant to section 65(1)(f) of the Act; and
- authorization to recover the filing fee for the Tenant's application from the Landlord pursuant to section 72(1) of the Act.

The Tenant and the Landlord attended this reconvened hearing and gave affirmed testimony.

Issues to be Decided

1. Is the Tenant entitled to a rent reduction?
2. Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of the Tenant's claims and my findings are set out below.

This tenancy commenced on July 15, 2022 and ended on September 30, 2023. Rent was \$3,800.00 due on the first day of each month.

In the Tenant's application, the Tenant requested a \$500.00 rent reduction for repairs, services or facilities agreed upon but not provided as follows:

He has rented us this rental with 2 bathrooms, one of the bathrooms is unsafe and unusable because it is too cold and the heating canal almost not working, Insulations of the wall are not as good as to make a bathroom livable and usable, specifically in the freezing winter. The fan does have hazards and it was assembled in the wrong and unsafe situation. So I ask for reducing and refund of \$500 for each month.

During the hearing, the Tenant clarified that he seeks a rent reduction of \$500.00 per month from September 2022 to February 2023. The Tenant submits that the bathroom was unusable during those months. The Tenant submits that the bathroom had non-standard wiring, an unsafe fan, no supporting heat, and inadequate exterior wall insulation which made the bathroom unusable and uncomfortable. The Tenant provided photos of the bathroom and email correspondence with the Landlord as supporting evidence.

The Landlord disagrees with the Tenant's request for a rent reduction. The Landlord submits that the rental unit's furnace heating system was updated about 4 years ago, is energy efficient, and can heat the house even in a severe winter. The Landlord submits that he and previous tenants had resided in the rental unit without heating issues.

The Landlord further submits as follows:

- The temperature control for the furnace is in the rental unit and the Tenant could have set the temperature high enough to make the unit very warm. The Landlord ensured that the furnace filter was replaced and working well during the winter.
- The heating canals and wall insulation do not have any issues and were inspected by the district during the original construction. The outside envelope of the house is covered in concrete and is in good condition.
- The bathroom fan is a standard fan which shares a common switch with the light. This complies with electrical and building code requirements. However, the Tenant complained about the common switch and requested to separate them. The Tenant claimed that the fan took the warm air from the master bedroom and the Tenant felt cold at night. The Landlord was hospitalized abroad at the time, so he had his brother help hire a handyman to add a temporary fan switch for the Tenant. The fan is working properly and there were no issues with assembly. The temporary fan switch was installed for the Tenant's comfort only and will be removed.

Analysis

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.

1. Is the Tenant entitled to a rent reduction?

Section 65(1)(f) of the Act allows an arbitrator to make an order that past or future rent be reduced by an amount equivalent to a reduction in the value of a tenancy agreement for repairs, services or facilities agreed upon but not provided.

Based on the evidence presented, I do not find the Tenant to have proven that the bathroom was unusable such that a retroactive rent reduction for the loss of bathroom facilities is warranted.

First, I find there is insufficient evidence that the bathroom was too cold to be used during the winter months. I find the Tenant has not provided any recorded temperature readings as supporting evidence.

Additionally, I find the Tenant has not demonstrated that a suitable temperature could not have been achieved by using the rental unit's furnace heating system. I find there is insufficient evidence of any problems with the heating or insulation in the rental unit.

I find the Tenant has not clearly explained how the bathroom fan was hazardous, unsafe, or assembled incorrectly. I do not find the Tenant to have been unable to use the fan or the bathroom due to the temporary switch installed by the Landlord's handyman.

Therefore, I do not find the Tenant to have suffered any loss of use of the bathroom to justify a rent reduction.

I note the Tenant's submissions included complaints about other problems with the rental unit and aspects of the tenancy relationship. However, I do not find those complaints to be relevant to the issue of the Tenant's stated claim for a rent reduction due to a loss of bathroom facilities. Under Rule 2.2 of the Residential Tenancy Branch Rules of Procedure, the claim is limited to what is stated in the application.

For the reasons given above, I dismiss the Tenant's claim under this part without leave to re-apply.

2. Is the Tenant entitled to recover the filing fee?

The Tenant has not been successful in his claim for a rent reduction. I decline to order reimbursement of the Tenant's filing fee under section 72(1) of the Act.

Conclusion

The Tenant's claims for a rent reduction and reimbursement of the filing fee are dismissed without leave to re-apply.

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: January 2, 2024

Residential Tenancy Branch