



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RR, FF

Introduction

This hearing dealt with an application by the tenants for money owed or compensation for damage or loss, to allow a tenant to reduce rent for repairs and recovery of the filing fee. Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is either party entitled to any of the above under the Act.

Background and Evidence

This tenancy began January 1, 2011 with monthly rent of \$2000.00.

The tenant testified that in June 2011 they contacted the landlord as one of the rooms in the basement had a very musty odour and the carpet was wet. The tenants note in their email to the landlord that they do not use this room and keep the door closed however the tenant in this hearing stated that the room is sometimes used as a television room. The tenants also stated in their email to the landlord that the musty smell was spreading throughout the entire house.

The landlord stated that on June 9 a plumbing contractor was contacted and that initially the source of the water ingress into the basement could not be located. The tenants then contacted the landlord 2 weeks later to advise him that one corner of the basement was submerged in water. A second inspection by a plumbing contractor determined that the drain tiles around the exterior of the house had failed and needed to be replaced.

The landlord's contractor commenced replacement of the drain tile on July 26 and work was completed August 15. The carpet in the basement bedroom was replaced August 27 after work on the drain tile was completed. The tenant stated that during this time the entire yard was a construction zone and they lost use of the yard. The tenant also stated that construction debris remains in the yard along the fence but that they had not advised the landlord of this.

The landlord stated that the landscaping company had advised them of one area of construction debris in the yard and that they had it promptly removed. The landlord also stated that the missing section of fence was being replaced by the neighbouring property owner as he has taken responsibility for this.

The landlord stated that they would consider giving the tenant a rent reduction based on a percentage of the residence that was unusable. The house is approximately 2000 sq. ft. and the bedroom that could not be used is 200 sq. ft. which results in a rent reduction of \$200.00 per month.

The tenant responded to the landlord's offer by stating that he would consider it but that he would prefer to leave the matter in the Dispute Resolution Officer's hands.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenants have met the burden of proving that they have grounds for entitlement to a monetary order for compensation for damage or loss.

The landlord was very responsive to the emails from the tenants and did not delay in locating the source of the water ingress and hiring a contractor to have the drain tile on the house repaired. The majority of the repairs took 3 weeks to complete. Consideration must be given to the tenant's email that states they do not use the room in question however the tenants do rent the entire house and yard exclusively and did loose use of part of the house and yard. The tenants therefore are entitled to compensation in the limited amount of **\$200.00**.

As the tenants have been successful in their application the tenants are entitled to recovery of the \$50.00 filing fee.

As the landlord has been made aware, as of this date, that construction debris remains in the yard, the landlord is directed to have all debris removed from the yard no later than December 12, 2011.

Conclusion

I find that the tenants have established a monetary claim for **\$200.00** for compensation for damage or loss. The tenants are also entitled to recovery of the \$50.00 filing fee.

The tenants may deduct \$250.00 from future rent owed to the landlord for recovery of the monetary award and of the filing fee paid to bring their application forward.

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: November 21, 2011.

Residential Tenancy Branch