



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, ERP, RP and PSF

Introduction

The application for this dispute resolution hearing was made by the tenant seeking a monetary award for delayed cable service, an order for landlord compliance with the legislation and rental agreement, repairs and emergency repairs.

Issue(s) to be Decided

Is the tenant entitled to the monetary compensation claimed and to the other remedies requested?

Background and Evidence and Analysis

The tenancy in dispute began on January 1, 2012 under a six-month fixed term rental agreement set to end on June 30, 2012. Rent is \$800 per month and the landlord holds a security deposit of \$400 paid at the beginning of the tenancy.

During the hearing, the tenant submitted the following claims on which I find as follows:

Return of hydro overpayment. Under the rental agreement, the tenant is responsible for one-half of the hydro billing. The tenant submits that the landlord has been overcharging by requesting one-half of the actual hydro usage rather than one-half of the equalized billing. The landlord stated that it was his intention to reconcile the billing at the end of April 2012. I find no breach of the rental agreement in the landlord billing for actual use rather than the equalized payment, particularly in view of the fact that this is a shorter term tenancy and the billing for actual usage is more likely to result in a zero or very small balance in April 2012 and/or at the end of the tenancy. The claim is dismissed.

Delay in provision of cable service. During the hearing, the tenant gave evidence that, while the rental agreement provided for basic cable service, she did not receive such service until mid-March 2012. The landlord stated that he had not arranged for the cable service as the tenant's rent for January was six days late and he anticipated he might have to end the tenancy early for unpaid rent. The landlord said that service was actually started on March 4, 2012 and that it would have been operating sooner, but the tenant had not been available in two instances in which the cable installer had attended the rental unit. He had advised the tenant in writing for February 24, 2012 and February 26, 2012 that the installer was coming. Section 27 of the *Act* provides that a landlord may only reduce a non-essential service with 30 days notice and provided the rent is reduced accordingly. I find that the landlord was bound by the rental agreement to provide cable service for January and February of 2012. The monthly value of the service is \$19.99. Therefore, I find that the tenant is entitled to recover that amount for two months and order that she may withhold \$39.98 from the rent due on May 1, 2012 by that amount.

Bathtub caulking. The tenant's claim for repairs and emergency repairs arise from her belief that the bathtub needs caulking as the joint between the tub and surround is subject to mold growth. The landlord stated that the design of the surround is such that caulking is not required. As the tenant has indicated her wish to leave the tenancy at the conclusion of the fixed term, as the mold can be managed by periodic scrubbing, and as the greater potential harm is to the wall and flooring around the tub which is the landlord's responsibility, I find that it is not necessary for me to issue a formal order for the remedy sought.

Laundry. The rental agreement includes the use of laundry facilities. The tenant is of the view that she is entitled to exclusive use of the laundry, but it is also used by the landlord who she believes to have laundry facilities in his own unit. As I find no written portion of the rental agreement that provides "exclusive" use of the laundry facilities, I find that the landlord is abiding by the rental agreement and make no order on the matter.

Cost of window repair. Both parties raised this issue arising from an incident in which the tenant had accidentally been locked out of her suite, leaving her four-year old autistic child isolated inside. When the landlord stated he did not have a key, the tenant called police who broke a bathroom window to gain entry. I advised that the landlord would have to file his own application to make a claim on this repair and that I could not rule on it on the tenant's application.

While I had some difficulty understanding due to a language barrier, I understood the landlord to say he had disposed of his key to the rental unit after the tenant had falsely accused him of entering the unit without proper notice or cause. The landlord also said that was the third time the tenant had locked herself out.

In any event, if the landlord does not have a key to the rental unit, I hereby order that he obtain one without delay at his own expense in order to meet his obligation to provide emergency access if required.

Conclusion

As authorized by section 72(2)(a) of the *Act*, **I hereby order** that the tenant shall withhold \$39.98 from the rent due on May 1, 2012 in compensation for the delay in providing cable service in January and February 2012.

Pursuant to section 65 of the *Act*, **I hereby order** the landlord to obtain a copy of the key to the rental unit immediately and at his own expense to be kept readily accessible in the event of an emergency.

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: April 18, 2012.

Residential Tenancy Branch