Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, FF

Introduction

This hearing dealt with the Tenants' Application for Dispute Resolution, seeking to reduce rent for repairs, service or facilities agreed upon but not provided, and to recover the filing fee for the Application.

This matter involved two hearings. Both parties appeared at the hearings. At the outset, the hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

Issue(s) to be Decided

Are the Tenants entitled to a rent reduction for repairs, services or facilities agreed upon, but not provided?

Background and Evidence

This tenancy began in July of 2004, with the parties signing a written tenancy agreement on or about May 24, 2004. At the present time the monthly rent is $1,280.00.

The Tenants are claiming for a rent reduction for partial loss of use of the laundry facilities at the rental property. The Tenants also request that the Landlord repair the front lawn at the rental unit.

The tenancy agreement includes a clause that laundry is included in the rent. The same clause also sets out that, "The landlord must not take away or make the tenant pay extra for a service or facility that is included in the rent." [Reproduced as written.]

In an undated written notice from the Landlord, the hours of the use of the laundry room are explained to the Tenants and other renters at the rental property. The Tenants are given four days per week, including Sunday, to use the laundry room from 9:00 a.m. to 10:00 p.m. The Tenants testified that these were their laundry hours up to the Landlord changing them.

On August 1, 2011, the Landlord gave the Tenants and other renters at the property a notice that the laundry facilities could no longer be used on Sundays and that the hours of use were reduced an additional one hour each day for the other six days of use.

The Tenants have provided calculations that this reduced their use of the laundry by 16 hours per week. The Tenants calculate that this reduction has caused them or will cause them to spend $27.50 a week at the Laundromat. From August 1, 2011, to April 30, 2012, this amounts to $990.00, according to their calculations.

The Landlord claims that the cost of hydro caused her to reduce the time allowed for the laundry. The Landlord also claims there were reports of noise coming from the laundry facility after 10 p.m. The Landlord further testified that the Sunday was removed as there should be one day of rest in the week.

The Tenants also want the Landlord to repair the front yard at the rental unit. The Tenants testified that in August of 2011, skunks or racoons had dug up mounds of grass sod on the front yard and the Landlord has not repaired this. They say the front yard is unsightly and that their children cannot play in this yard. The Tenants submitted photographic evidence of the front yard. They submitted evidence that there are problems with the back yard as well. The Tenants have also asked the Landlord to paint the rental unit, as well as make other repairs.

The Tenants submit that the Landlord has refused to make these repairs unless they agree to a higher rate of rent, as a result of the terms of the tenancy agreement changing. The tenancy agreement was changing due to actions taken by the Landlord.

In January of 2012, the local municipality visited the rental unit property and found the Landlord had illegal suites in the basement of the duplex where the rental unit is located. The city ordered the Landlord to return the fourplex to its original duplex state. The Tenants agreed they would pay a higher rate of rent once they had possession of the rental unit.

Following this the Landlord gave the Tenants a letter stating that the rent would rise by an equivalent of 51% to $1,950.00, and all repairs at the rental unit, including the front lawn, were "... on hold for the moment until the rentals are agreed upon, one cannot find a duplex with 5 bedrooms and 2 bathrooms in a very choice area as this one is. Just look in the [local newspaper]." [Reproduced as written.]

The Landlord testified that the Tenants had been given permission to paint and she offered to help out with this.

The Landlord further testified that the reason the front lawn was dug up was because there are certain grubs in the ground under the sod which attract skunks and racoons. The Landlord testified that they have to use "neototes" to fight these grubs. The Landlord testified that there are only certain times of the year that the "neototes" can be put in the ground and that they were waiting to do this.

At the second hearing, the Landlord testified that the rental unit property had been sold and that the Tenants had been given a two month Notice to End Tenancy, with an effective date of July 31, 2012. The Landlord felt it was not reasonable to do any of these repairs now the property has been sold.

The Landlord concluded her testimony by stating she feels the Tenants are trying to "stick it to her".

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find as follows:

Under section 27(2) of the Act the Landlord is not allowed to terminate or restrict a service or facility, unless rent is reduced by the equivalent value of the loss of the service or facility.

I find the Landlord has breached section 27(2) of the Act by failing to reduce the rent by an amount equivalent to the reduction in value of the tenancy agreement, due to the reduced laundry time.

Section 67 of the Act states:

> Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations

> or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the Tenants have proven their loss of use of the laundry time has an equivalent value of $27.50 per week, as a result of having to use other laundry facilities. I find this amounts to $110.00 per month. Therefore, I award the Tenants **$1,210.00** for eleven months, from August 2011 to the end of June 2012. I do not award the Tenants a loss for July 2012, as they are not required to pay rent during the last month of tenancy due to the effect of the two month Notice to End Tenancy issued by the Landlord.

Under section 32 of the Act, the Landlord must provide and maintain the rental property in a state of decoration and repair that complies with health, safety and housing standards, and makes it suitable for occupation by the Tenants.

I find the Landlord breached section 32 of the Act by allowing the front yard to fall into a state of disrepair that not only made it unsightly, but unsafe as well. The photographic evidence provided by the Tenants shows a front yard covered with many small mounds of dug up sod. I accept the evidence of the Tenants that the front yard is unsafe for the use of their children and find it is unsightly as well.

It is also clear from the submissions and testimony heard that the Landlord has no intention of making repairs to the front yard.

Therefore, I find that the Landlord has again restricted or terminated a service or facility, i.e., the use of the front yard, and has failed to reduce the rent by an equivalent amount for the loss.

Under section 67 of the Act, I find that the loss of use of the front yard is equivalent to a reduction in value to the tenancy agreement of $75.00 per month and award the Tenants **$825.00** for eleven months, from August 2011 to the end of June 2012. Once again, I do not award the Tenants a loss for July 2012, as they are not required to pay rent during the last month of tenancy due to the effect of the two month Notice to End Tenancy issued by the Landlord.

I find that the Tenants have established a total monetary claim of **$2,085.00** comprised of the above amounts and the $50.00 fee paid by the Tenants for this application.

I grant the Tenants an order under section 67 for this amount. This order must be served on the Landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Lastly, I note the Landlord appears to have little understanding of her obligations or her rights under the Act in conducting her business. Therefore, I have provided the Landlord with a guidebook to residential tenancies for her use.

This decision is final and binding on the parties, except as otherwise provided under the Act, and 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: June 13, 2012.

Residential Tenancy Branch