



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, RR, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking an order to have the landlord make repairs and emergency repairs and to reduce the rent.

The hearing was conducted via teleconference and was attended by the tenant and the landlord. The tenant had arranged for a witness to be available however the witness was not called to provide testimony.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order requiring the landlord to make repairs and emergency repairs; to reduce rent until such time as repairs are made and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 33, 65, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The parties agree the tenancy began on May 1, 2013 as a month to month tenancy for a monthly rent of \$1,125.00 due on the 1st of each month with a security deposit of \$450.00 paid.

The parties had previously had a hearing on June 19, 2013 that dealt with, among other issues, the tenant's request for the landlord to remove garbage from the property; painting the interior walls; repairs to the roof; to deal with a mouse problem; and to repair the deck.

The decision granted an order to have the landlord complete repairs to the roof no later than July 31, 2013 and to "take immediate action to remove the mice from the rental unit and to continue with such actions until the problem has been rectified." The decision dismissed the tenants requests for repairs to the deck; painting the interior walls; and to remove garbage with the exception of removal a washer and dryer.

The tenant submits that to date, the tenant has sent over two roofers to assess the roofing job but he has not completed any of the work. The landlord submits that both roofers indicated that they would not do any work for the landlord because the tenant was bothering them when they attending the property to establish their estimate.

The tenant acknowledges talking with the roofers but states that she believes that roofers' estimates indicated that work would involve much more than the landlord anticipated and he is not willing to complete the project.

The tenant submits that the landlord has failed to do anything more than provide some basic, ineffective traps. The landlord submits that he got the traps from an exterminator but that they have not been effective. The landlord submits that the exterminator advised him that because there are pets and children in the property there is nothing else that can be done.

Analysis

In regard to the portion of the tenant's Application seeking the removal of garbage; the painting of interior walls; and repairs to the deck, I find that as these issues were adjudicated in the June 19, 2013 decision they are considered *res judicata*.

Res judicata is the doctrine that an issue has been definitively settled by a judicial decision. The three elements of this doctrine, according to Black's Law Dictionary, 7th Edition, are: an earlier decision has been made on the issue; a final judgement on the merits has been made; and the involvement of the same parties.

As such, I dismiss these three specific requests for cleaning and repairs.

In relation to the portion of the tenant's Application seeking to have an order to have the landlord make repairs to the roof, I find as the landlord has failed to comply with the original order of June 19, 2013 and I order the landlord to repair the roof immediately.

In relation to the portion of the tenant's Application seeking to have an order to have the landlord deal with the mouse problem, I find as the landlord has failed to comply with the portion of the order "to continue with such actions until the problem has been rectified" I order the landlord to hire an exterminator, immediately, to rid the residential property of mice.

I further order the tenant is entitled to a rent reduction in the amount of \$300.00 per month effective September 1, 2013 and until such time as the landlord completes the above noted orders and has applied for and obtained an order from a Residential Tenancy Branch arbitrator confirming that these orders have been completed and that he may reinstate the rent to the amount in the tenancy agreement.

I also order that since the landlord failed to comply with the June 19, 2013 order that would have completed the roof work by July 31, 2013 the tenant is entitled to a rent

reduction for the month of August 2013 in the amount of \$300.00. Pursuant to Section 72(2)(a) the tenant may deduct this amount from a future rent payment.

Conclusion

As the tenant was only partially successful in her application I grant that she may recover \$25.00 of the \$50.00 filing fee paid for this Application for Dispute Resolution and that she may recover this amount by deducting it from a future rent payment in accordance with Section 72(2)(a).

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: August 20, 2013

Residential Tenancy Branch

