



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP, RR

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order that the landlords comply with the *Act*, regulation or tenancy agreement; for an order that the landlords make repairs to the unit or site; and for an order reducing rent for repairs, services or facilities agreed upon but not provided.

Both landlords and the tenant attended the hearing and all parties gave affirmed testimony. The tenant also provided evidentiary material to the Residential Tenancy Branch and to the landlords. The parties were given the opportunity to cross examine each other on the testimony and evidence provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more particularly for damages for excess condensation and mold build-up in the rental unit?
- Has the tenant established that the landlords should be ordered to comply with the *Act*, regulation or tenancy agreement, and more particularly to make repairs to the rental unit?
- Has the tenant established that the landlords should be ordered to make repairs to the unit or site?
- Has the tenant established that rent should be reduced for repairs, services or facilities agreed upon but not provided?

Background and Evidence

The parties agree that this fixed term tenancy began on October 1, 2013 and expires on September 30, 2014. Rent in the amount of \$850.00 per month is payable in advance on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$425.00 which is still held in trust by the landlords. A move-in condition inspection report was completed by the parties on or about October 1, 2013.

The tenant testified that the rental unit has no ventilation and the tenant sent the landlords an email on December 17, 2013 setting out some complaints about other tenants and asking for a mutual agreement to end the tenancy early. The tenant testified that the landlord's response was an agreement but at the expense of the tenant, but no dollar amount was quoted and the tenant did not pursue it.

Sometime in December, 2013 the tenant noticed a build-up of mold in the kitchen window. The parties exchanged a number of emails throughout November and December, 2013 and January and February, 2014, copies of which have been provided, wherein a number of issues were discussed including mold in the windows and humidity in the rental unit. The tenant has also provided photographs which show dark mold growing on wooden window frames, some of which appear to be a fuzzy fungus or mold, and stated that the photographs were taken on February 4, 2014. The tenant testified that even though the landlords provided a dehumidifier, the condensation continues to build up and the tenant has to squeegee the windows daily and empty water from the dehumidifier twice per week; the dehumidifier only works for one room. One of the landlords has attended the rental unit a few times at the tenant's request and showed the tenant how to keep the windows open in such a way that it will allow a cold air return into the suite which will reduce the condensation. The tenant further testified that the windows have been cleaned up with bleach but the tenant has not been able to remove all of it. The tenant asks for the landlords to have the mold removed, use a mold paint such that mold can't grow on it and install clips for the screens so they can be removed. The tenant has told the landlords about the product, and they have advised that it would have to be done in the summer. The tenant also asks for rent to be reduced by \$50.00 per month retroactive to the commencement of the tenancy to date, or \$300.00.

The first landlord testified that the rental unit is heated with electricity only. It's an old building and the landlord showed the tenant how to open the window in such a way that

it would allow little cold air into the unit but enough of a cold air return that condensation wouldn't build up.

The landlord also testified that there was no mold build-up in the rental unit when the parties conducted the move-in condition inspection report, and that the tenant's responsibility is to keep the rental unit clean, which includes wiping down windows if required and the window tracks to keep them free from any build-up. The landlord agrees to clips for the screens and to painting the window frames with mold paint but does not recall the tenant telling him about it.

The other landlord testified that when the tenant asked to end the tenancy early, the landlord's response was that if the tenant paid for advertising costs, and if the rental unit was re-rented, the landlords would agree to ending the tenancy early, but if it didn't re-rent, the tenant would be liable for the rent until it re-rented.

The landlord has not specifically inspected the windows while in the rental unit, but stated that if there is any damage, the onus is on the tenant to clean it.

The landlords do not agree that rent should be reduced.

Analysis

The *Residential Tenancy Act* requires a landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit makes it suitable for occupation by a tenant. A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and must repair damage caused by the actions or neglect of the tenant or the tenant's guests.

The tenant in this case asks for an order that the landlords comply with the *Act* by making repairs to the rental unit to include mold paint and clips for the screens. The landlords have not disputed that. The tenant also asks for the landlords to have the mold removed, and the landlords dispute that, stating that the onus is on the tenant. In order to be successful, the tenant would have to establish that the landlords have breached the *Act*.

I have reviewed the emails exchanged by the parties, and considering the testimony of the parties, I find that the landlords have on several occasions advised the tenant how to reduce the condensation build-up. The tenant has not provided any evidence that the landlord s have failed to maintain the rental unit in a state of repair that complies with

health, safety and housing standards required by law. I further find that the tenant has failed to establish that the rental unit is not suitable for occupation by a tenant. The tenant testified that the mold in the kitchen window wasn't noticed until December, 2013 and that it was cleaned with bleach. However, the tenant also testified that the photographs were taken on February 4, 2014. Having seen the photographs, I cannot find that the tenant has cleaned it at all between December, 2013 and February, 2014.

With respect to the tenant's applications for a monetary order and reduction in rent, the onus is on the tenant to establish that the landlords have failed to comply with the *Act* and what efforts the tenant has made to mitigate, or reduce the damages suffered. Having found that the tenant has not cleaned the windows or frames, I also find that the tenant has not established mitigation. Further, having found that the tenant has failed to establish that the landlords have breached the *Act*, I cannot find that the tenant has established the monetary claim.

I further find that the tenant has failed to establish that the landlords have agreed to provide repairs, services or facilities, and therefore the tenant is not entitled to a reduction in rent.

The landlords have agreed to screen clips and mold paint, and I order the landlords to complete that by May 15, 2014.

In the circumstances, I also find that the tenant has some obligation to comply with the *Act*, and I order the tenant to do so by cleaning up the mold prior to the landlords applying paint and window screen clips, and to maintain the rental unit as required by the *Act*.

Conclusion

For the reasons set out above, I hereby order the tenant to clean the windows and window sills and tracks with a bleach solution by April 30, 2014.

I further order the landlords to make the following repairs to the rental unit as consented to, by May 15, 2014:

- Install screen clips in the windows;
- Use mold paint on the window frames, if such product is available.

The tenant's applications for a reduction in rent and for a monetary order are hereby dismissed without leave to reapply.

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 15, 2014

Residential Tenancy Branch