



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, ERP, RP, O

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking monetary compensation and an order to have the landlord complete repairs and emergency repairs.

The hearing was conducted via teleconference and was attended by the tenant; his occupant/witness and the landlord.

While the tenant's Application for Dispute Resolution named two applicants as tenants, I note the tenancy agreement names BM as the only tenant. As a result, I find the applicant LM has no standing in this tenancy and I amend the tenant's Application to exclude LM as an applicant.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order requiring the landlord complete repairs and emergency repairs and an order compensating the tenants for failure to complete repairs by a reduction in rent, pursuant to Sections 32, 33, 65, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenants submitted into evidence a copy of a tenancy agreement signed by the parties on May 11, 2016 for a month to month tenancy beginning on June 1, 2016 for a monthly rent of \$1,200.00 due on the 1st of each month with a security deposit of \$600.00 paid.

The tenant submitted that shortly after moving into the rental unit they discovered a number of problems with the property. The tenant submitted a copy of a letter dated July 31, 2016 outlining the problems they had found since moving in. The tenant stated that he provided this letter to the landlord when they paid their August 2016 rent. The issues raised in the letter are as follows:

1. The potential for asbestos contaminated vermiculite insulation falling out of the walls and ceiling in a closet;
2. Electrical problems – front entrance light sparking and buzzing; bare wires from a phone jack; and a broken lightbulb in the back bathroom socket;
3. Four doors requiring keys as the tenant only had a key for one of the doors;

4. No smoke alarm;
5. Several pest issues including a rodent living in the attic; two ant infestations and multiple active wasp nests;
6. Leaking roof – at the time of the letter the tenant states that he was waiting to hear if the roof had been successfully fixed. To date, the tenant submitted, the interior ceiling has not been repaired, including any mould issues;
7. All water taps providing hot water before cooling down after running for a while; and
8. That the rental unit was not cleaned when they moved into the unit.

On November 1, 2016 the tenant wrote another letter to the landlord indicating the following:

1. The roofer had spoken to the tenant and stated he does not believe the leaking problem was the roof but rather moisture and water seeping into the brick of the chimney; freezing; cracking; and flaking causing the seals to loosen;
2. The washer is leaking;
3. The electrical problems in the bathroom and the smoke detector issues have been resolved but all other problems remain outstanding.

The tenant seeks orders to compel the landlord to investigate and repair any outstanding problems as noted in the July 31, 2016 letter. The tenant also seeks compensation in the form of a rent reduction for the period beginning of the tenancy.

The landlord stated that he had no problem making all of the repairs requested but stated he needed time to complete them. He stated that some of the repairs had been completed by his handyman including:

1. Sealing up of the vermiculite problem in the closet;
2. Exterior doors; and
3. Roof – he states that his roofer completed repairs including repairs to the chimney flashing;

The landlord stated that one of the reasons he has not completed all repairs is that the tenant has been uncooperative. In particular he stated that when he sent someone to work on the phone jack wires the tenant would not allow the work to be done and that he had given the tenant 2 locks but the tenant has not completed the work as he promised to do.

The landlord states that he will have the front entrance light and the washer repaired. In regard to the pest problem the landlord stated that as far as ants go they are not a problem and any rodents in the attic or walls is unlikely because his previous tenant never reported any problems and he it's not possible for an infestation to occur within a couple of weeks of the start of this tenancy.

The tenant testified that he did not allow the work on the phone wires because the jack is behind a bookshelf and it was too difficult to move at the time the landlord's handyman wanted to fix it. He also states that he has not completed the lock replacement because there are 4 doors that need the changed locks but the landlord has only provided two and there are additional parts required.

Neither party provided a copy of a Condition Inspection Report recording the condition of the rental unit at the start of the tenancy. The tenant submitted that the landlord never completed a move in condition inspection or provided them with a copy of the report. In addition, the landlord has provided no evidence to confirm any of the requested work has been completed.

Analysis

Section 32(1) of the *Act* requires the landlord must 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 make it suitable for occupation by a tenant.

Section 33(1) of the *Act* defines "emergency repairs" as repairs that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purpose of repairing:

- Major leaks in pipes or the roof,
- Damaged or blocked water or sewer pipes or plumbing fixtures,
- The primary heating system,
- Damaged or defective locks that give access to a rental unit, or
- The electrical systems.

From the testimony of both parties, and on a balance of probabilities, I am satisfied the tenant has identified a number of deficiencies of the rental unit to the landlord and that the landlord has failed to establish that the repairs have been completed or completed properly.

As a result, I make the following orders:

1. I order the landlord immediately hire a professional roofer and professional chimney inspector to determine if there are any possible roof and chimney leaks that are causing water to infiltrate either the roof or chimney;
2. I order the landlord to provide the tenant with a written report from the professionals with their conclusions regarding any and all work required;
3. I order that if the above professionals determine any additional work is required to the roof and the chimney the landlord undertake to complete the work immediately;

4. I order the landlord to have the rental unit inspected by a certified and licensed mould technician to determine if there are any mould issues;
5. I order the landlord to provide the tenant with a written report from the certified and licensed mould technician with their conclusions regarding any and all work required;
6. I order if the mould technician determines there are any mould issues the landlord undertake immediate remediation to ensure the rental unit is suitable for occupation;
7. I order the landlord to have the rental unit inspected from a certified and licensed pest control technician to determine if there are any rodent and/or inspect infestation requiring remediation;
8. I order the landlord to provide the tenant with a written report from the certified and licensed pest control technician with their conclusions regarding any and all work required;
9. I order if the pest control technician determines there are any pest issues the landlord undertake immediate remediation to ensure the rental unit is suitable for occupation;
10. I order the landlord complete repairs to any ceilings on the interior of the house that have been damaged due to water infiltration;
11. I order the landlord to have the rental unit inspected by a professional certified and licensed to evaluate and remediate hazardous materials such as asbestos to inspect the rental unit to determine if there is a requirement to remove any hazardous material in the rental unit;
12. I order if the landlord to provide the tenant with a written report from this professional with their conclusions regarding any and all work required;
13. I order if this professional determines remediation is required that the landlord undertake immediate remediation to ensure the rental unit is suitable for occupation;
14. I order the landlord to immediately repair the front entrance light; exposed phone wires; and the washer.
15. I order the landlord to immediately either repair the locks to all exterior doors or provide the tenant with sufficient supplies to ensure that he can make the appropriate repairs.

Section 65(1)(f) of the *Act* states that if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement the director may order that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement.

I find the landlord has failed to provide any justifiable reason as to why many if not all of these repairs have not yet been made. As such, I find the tenant has established entitlement to a rent reduction. I am satisfied, based on the nature of the repairs and their impact on the value of the tenancy, the amount of \$200.00 per month is an appropriate level of rent reduction.

However, as the tenants did not put their specific requests in writing to the landlord until July 31, 2016 I find it would be unfair to award the rent reduction to the start of the tenancy. Furthermore, if the landlord would have made the repairs immediately or shortly after receiving the request it is reasonable to assume they may have taken up a month to complete.

As a result, I order that this rent reduction should begin effective September 1, 2016 and remain in place until either the parties agree that work ordered above is completed or the landlord obtains an order from an Arbitrator that the work has been completed.

I caution the tenant, however, that should the tenant impede on the landlord's ability to complete any of the above ordered work an Arbitrator may determine that any rent reductions applied may be reversed.

Conclusion

As noted above, I have made several orders for the landlord to comply with immediately or at the very least as soon as possible.

I find the tenant is entitled to monetary compensation pursuant to Sections 65 and 67 in the form of a rent reduction in the amount of **\$200.00 per month until the conditions noted above are satisfied.**

For the period including September 2016 to November 2016 the tenant is entitled to \$600.00 that may be deducted from a future rent payment, pursuant to Section 72(2)(a).

Effective, December 1, 2016 the tenants are allowed to reduce their rent payment by \$200.00 in accordance with my order above.

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 25, 2016

Residential Tenancy Branch