



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AZIZAMAICO HOLDINGS CANADA LTD.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, RR, MNDC, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make repairs to the rental unit pursuant to section 32; and
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed that the tenant served the landlord with the notice of hearing package via Canada Post Registered Mail on October 24, 2016. Both parties also acknowledged receiving the submitted documentary evidence package submitted by the other party by Canada Post Registered Mail. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served as per sections 88 and 89 of the Act.

During hearing discussions between the parties led to a mutual agreement to resolve part of the issues of dispute.

Section 63 of the *Residential Tenancy Act* provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows;

1. The tenant agrees to withdraw his application for repairs and a reduction in rent for repairs.
2. Both parties agreed that the landlord will make repairs to the following listed items by January 15, 2017 as per the two letters dated April 29, 2016 and July 25, 2016.
 - Repair/Replace leaky faucet in bedroom
 - Replace missing handle on kitchen drawer
 - Repair/Replace front door intercom/access
 - Repair/Replace baseboard in kitchen
 - Repair/Replace bathroom leaking enclosure

The above particulars comprise full and final settlement of all aspects of the dispute arising from the repair portion of the application for both parties.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation for loss of quiet enjoyment?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

This tenancy began on May 1, 1994 on a fixed term tenancy until April 30, 1995 and then thereafter on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated April 13, 1994. The monthly rent was \$580.00 payable on the 1st day of each month and a security deposit of \$290.00 was paid.

The tenant seeks monetary compensation of \$4,496.25 which is equal to 50% of the monthly rent from December 15, 2015 to October 2016.

The tenant stated that since September 2015 a mice infestation problem existed which the landlord/owner was advised in a letter on December 14, 2015. The tenant stated that the landlord was notified verbally, but was finally given a letter dated April 29, 2016 and a letter dated July 25, 2016. The landlord confirmed receipt of the letter dated

December 14, 2016 was received by the landlord/owner which was then passed to the landlord's agent. The landlord stated that the mice infestation problem was dealt with in retaining a pest control company. It was determined that a bag of seeds was in the storage room from which the mice had infested. The landlord stated that on January 21, 2016 the landlord began pest control treatments for mice. The landlord stated that a tenant wide letter was issued for tenants to sign up and indicate whether they had been affected by the mice and would like pest control. The landlord stated that the tenant failed to indicate that he needed assistance. The tenant disputed this stating that he did in fact sign up for assistance. Both parties agreed that as of April 2016 the mice infestation problem has been resolved.

In support of this application, the tenant has provided 9 photographs of dead mice found in his rental unit.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, both parties have confirmed that the tenant notified the landlord of a mice infestation that began in September 2016 in a letter dated December 14, 2016. The tenant provided undisputed affirmed testimony that repeated verbal notice(s) were given to the landlord/owner without any response. Both parties agreed that the landlord began pest control on January 21, 2016 and that the mice infestation was resolved in April of 2016. As such, I find that the tenant has provided sufficient evidence to satisfy me that a loss of quiet enjoyment had occurred with the mice infestation and that the landlord was slow in responding to the issue. The tenant seeks a monetary claim of \$4,496.25 for the mice infestation for the period between December 15, 2015 and October 2016 which consists of 50% off of the monthly rent. The tenant has failed to provide any further evidence to show a loss of quiet enjoyment based upon the claim of mice infestation for the period between April and October 2016. I also find that the tenant has failed to justify the claim of 50% of the monthly rent for the period between December 15, 2015 and April 2016. On this basis, I find that the tenant has failed in his monetary claim application. However, I do find that the tenant suffered a loss of quiet

enjoyment and is entitled to a nominal award based upon the inconvenience placed upon him by the landlord's neglect. On this basis, I grant an arbitrary nominal award of \$200.00 (\$50.00 per month for the 4 month period of the mice infestation).

As the tenant has been partially successful in his application for dispute, I grant the recovery of ½ of the filing fee of \$50.00.

Conclusion

The tenant has established a monetary claim for \$250.00.

I authorize the tenant to withhold one-time \$250.00 from the next month's rent upon receipt of this decision.

I also order that in the event that the landlord has not completed all of the agreed upon repairs by January 15, 2017 that the tenant may reduce his monthly rent by \$50.00 until all of the agreed upon repairs have been made. If there is a dispute over what repairs have been completed, either party is free to file an application for dispute to resolve this issue.

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: December 13, 2016

Residential Tenancy Branch