



Order under Sections 30 and 31
Residential Tenancies Act, 2006

File Number: EAT-87383-19
EAT-87384-19

In the matter of: 3, 1114 WELLINGTON STREET W
OTTAWA ON K1Y2Y7

Between: Amanda Desormeaux Tenant

and

Melynda Layton Landlord

Amanda Desormeaux (the 'Tenant') applied for an order determining that Melynda Layton (the 'Landlord') harassed, obstructed, coerced, threatened or interfered with her, entered the rental unit illegally, substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household and withheld or deliberately interfered with the reasonable supply of a vital service, care service, or food that the Landlord is obligated to supply under the tenancy agreement (T2 Application).

The Tenant also applied for an order determining that the Landlord failed to meet the Landlord's maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards (T6 Application).

These applications were heard by videoconference on June 2, 2021.

The Tenant, the Landlord's legal representative, Claudia Poveda, and the Landlord attended the hearing. Lise Larocque, the Tenant's mother, attended the hearing as a witness for the Tenant.

Determinations:

T6 Application:

1. The Tenant's application claims that the Landlord did not sufficiently clear the ice and snow from the steps in front of the rental unit for the winter of 2018/19 and the fall of 2019 up to November 26, 2019 when the Tenant moved out of the rental unit.
2. The Tenant submitted into evidence an email to the Landlord dated December 30, 2018 which states that the steps were icy and that her brother had slipped and fallen that day. Appended to the email were photographs of the steps showing a significant accumulation of ice.

3. The Landlord testified that there was a problem with the eaves trough which caused ice to form on the front steps but maintained that she regularly attended the rental unit to clear the front steps of ice and snow.
4. The Tenant did not submit any other evidence to show that the Landlord failed to clear the ice and snow on any other occasions. Nor did she submit into evidence any other communications with the Landlord about this issue (other than a January 7, 2019 email which simply followed up on the email of December 30, 2018).
5. The evidence and testimony above lead me to conclude that the Tenant has proven that the ice was not cleared sufficiently on December 30, 2018. The Tenant has not provided any photographic evidence or complaints to the Landlord that would lead me to conclude that the Landlord failed to clear the ice and snow on any other occasion. As a result, I find that the Landlord failed to comply with health, safety, housing or maintenance standards on December 30, 2018, however, I also find this to be a minor one time breach which only warrants a nominal abatement of \$50.00. Although the Tenant's application claimed compensation because her brother was injured from falling on the steps on December 30, 2018, there was insufficient evidence before me with respect to the nature and degree of the injury to warrant an order for compensation.
6. The Tenant's application also claims that the hardwired smoke detector became detached from the ceiling on August 6, 2019 and was hanging down by its wires. The Tenant contacted the Landlord and was told to replace the battery. The Tenant's mother attended the rental unit and re-affixed the smoke detector to the ceiling, tested the smoke detector, and found it to be operational. Although the smoke detector became detached from the ceiling, the smoke detector worked when tested by the Tenant's mother. I note that the Tenant's email to the Landlord dated August 6, 2019 states that the smoke detector did not work when tested, however this was not part of the testimony at the hearing and is countered by the fact that it worked when tested by the Tenant's mother. I find the fact that the smoke detector was hanging down from its wires to be such a minor breach of the Landlord's obligation to comply with health, safety, housing or maintenance standards that it does not warrant any abatement of rent.
7. The Tenant's application also claimed that there was no carbon monoxide detector in the rental unit. The Tenant did not provide evidence that a carbon monoxide detector was required in the rental unit by identifying the existence and location of carbon monoxide producing devices in the unit or the residential complex. As a result, the Tenant has not established that the Landlord failed to comply with health, safety, housing or maintenance standards and this portion of the application is dismissed.
8. Other than the remedies noted above, I do not find any of the other remedies requested by the Tenant to be supportable or appropriate in this matter.

T2 Application:

1. The Tenant's application claims that the Landlord entered the rental unit illegally on October 20, 2019, November 12, 2019, and November 26, 2019.

2. The Landlord acknowledged that some of the written notices of entry she served on the Tenant were one or two hours short of the requisite 24 hours notice, but that the Tenant did not object to entry on those dates. The Landlord also acknowledged entering the unit on one occasion without notice but says she did so at the request of the Tenant's father who wished to discuss work being done in the rental unit. I do not find such minor breaches of the Act warrant an abatement of rent.
3. The Tenant's application also claims that the Landlord substantially interfered with the Tenant's reasonable enjoyment of the rental unit with respect to repair work on the kitchen cupboards and countertop commencing October 21, 2019.
4. It was not disputed that the work was not completed until the kitchen countertops were installed on November 27, 2019, the day after the Tenant vacated the rental unit.
5. I do not find that the repair work was completed within a reasonable time. I find that a 10% abatement for the period October 21, 2019 to November 27, 2019 in the amount of \$154.79 to be appropriate compensation with respect to this issue.
6. The Tenant's application also claims that the Landlord harassed, coerced, obstructed, threatened or interfered with the Tenant in her email communications with the Tenant. While I found the Landlord's accusation that the Tenant propped open the front door to the building to be unfounded and the Landlord's tone to be high-handed, I do not find the Landlord's email communications constitute harassment etc. As a result, this portion of the application is dismissed.
7. The Tenant's application also claims that the Landlord withheld or interfered with vital services regarding the heat in the rental unit. Although the Tenant's application alleges that the heat was below housing standards, the Tenant's T2 claim is that the Landlord intentionally withheld or interfered with the heat in the rental unit, not that the Landlord simply failed to comply with health, safety, housing or maintenance standards (which is the standard applied on a T6 Application). There was no evidence to support the allegation that the Landlord intentionally withheld or interfered with vital services. To the contrary, the Landlord provided the Tenant with portable heaters when there was an issue with the heat and replaced the furnace. As a result, this portion of the Tenant's application is dismissed.
8. The Tenant's application also requests that the Landlord refund a key deposit. The Landlord denied receiving a key deposit. The Tenant did not present any proof to show that she paid a key deposit. On a balance of probabilities, I find the Tenant has not proven that she paid a key deposit. As a result, this portion of the application is dismissed.
9. Other than the remedies noted above, I do not find any of the other remedies requested by the Tenant to be supportable or appropriate in this matter. In particular, I do not find that the Landlord's breaches of the Act were sufficient to warrant termination of the tenancy or that they caused the Tenant to move out of the rental unit.

It is ordered that:

1. The Landlord shall pay to the Tenant a rent abatement of \$204.79, representing a \$50.00 abatement for the T2 Application and a \$154.79 abatement for the T6 Application.
2. The Landlord shall also pay the Tenant \$45.00 for the cost of filing the T2 Application and \$45.00 for the cost of filing the T6 Application.
3. The Landlord shall pay the Tenant the full amount owing of \$294.79 by October 2, 2021.
4. If the Landlord does not pay the Tenant the full amount owing by October 2, 2021 the Landlord will owe interest. This will be simple interest calculated from October 3, 2021 at 2.00% annually on the outstanding balance.

September 21, 2021
Date Issued



Richard Ferriss
Member, Landlord and Tenant Board

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If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.