



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: FF MNDC O

Introduction

This hearing dealt with an application by the tenant for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on August 15, 2008, the landlord did not participate in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

The tenancy began on April 1, 2008. On May 5, 2008, City of Coquitlam public safety inspectors attended at the rental unit and conducted an inspection to address safety concerns related to historical marijuana grow operations in the rental unit. The inspectors determined that the wiring was faulty and needed to be replaced, and they also noted the presence of moulds and dangerous carbon dioxide emissions due to alterations of the furnace. The inspectors informed the tenants that they would be disconnecting the power and that the rental unit was not inhabitable in its current condition. The tenant immediately contacted the landlord, who responded that he was aware of problems from a previous grow-op in 2005. The landlord apologized to the tenant for the situation and acknowledged that she and her family would have to move out. The tenant and her family then spent several days moving out of the rental unit, and in the process they incurred costs as follows: \$314.14 for hotel accommodation;

\$260.92 for moving truck rentals; \$301.26 for fuel expenses; \$400 for meals for 4 adults and 2 infants for 4 days; \$38.85 for mail forwarding; and \$168 for legal fees. The tenant claims a further \$1000 for lost wages for one of the other tenants during the week of the move, and \$5000 for pain and suffering. Finally, the tenant claims recovery of the \$50 filing fee for the cost of the application.

Analysis

I find it is more likely than not that the landlord was aware of the significant problems with the rental unit at the time that he rented the unit to the tenant, and as such the landlord is responsible for the moving costs incurred by the tenant and her family. I find that the tenant is entitled to the amounts claimed for hotel accommodation, rental trucks, fuel expenses, meals and mail forwarding, for a total of \$1315.17. The tenant is also entitled to recovery of the \$50 filing fee but not the other costs related to dispute resolution represented by the \$168 in legal fees. I am not satisfied that the tenant is entitled to the claim of \$1000 in lost wages for one of the other tenants, as the applicant tenant did not provide evidence to establish that the 4 adult tenants took all reasonable steps to carry out their move without incurring the one tenant's lost wages. The tenant is not entitled to any of the amount claimed for pain and suffering, as this claim amounts to aggravated damages where the applicant must establish significant pain and suffering caused by the respondent's willful or reckless indifferent behavior. I do not find that the tenant in this case has provided sufficient evidence to establish a claim for aggravated damages, and I therefore dismiss this portion of the tenant's claim.

Conclusion

I grant the tenant an order under section 67 for the balance due of \$1365.17. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated October 2, 2008.

