



Dispute Resolution Services

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

Dispute Codes: MNR, FF, SS

Introduction

This matter dealt with an application by the Tenant for a Monetary Order for compensation for emergency repairs and to recover the filing fee for this proceeding. The Tenant also applied for an order that she be allowed to serve the Landlord in a manner other than provided for in the Act, however, it appears the Landlord was properly served with the Tenant's application and Notice of Hearing by registered mail and that she received it on November 6, 2008. Consequently, that part of the Tenant's application is dismissed.

Issue(s) to be Decided

1. Is the Tenant entitled to compensation for the cost of emergency repairs and if so, how much?

Background and Evidence

In previous proceedings between these Parties under file #707093 heard on December 3, 2007, the Landlord was ordered to repair the Tenant's door so that it fit the frame and closed properly. The Tenant claims that despite this order, the Landlord did not repair her door and she had to have a locksmith repair it at a cost to her of \$89.25. Although the Tenant referred to the problem as the door not "closing", she clarified that the problem was that the door could not be locked from the outside. Consequently, the Tenant is applying to have the cost of repairs reimbursed to her by the Landlord.

The Landlord said she believed the door had been fixed prior to the hearing on December 3, 2007. The Tenant said the Landlord came by the rental unit on or about December 3, 2007, noted that the keyed lock would not lock and said there was nothing she could do about it. The Landlord said the Tenant complained about the door again in August, 2008 so she along with someone else went to the rental unit and inspected the door and lock and found them to be in working order. The Tenant denied that the Landlord inspected the lock in August, 2008 and said the problem with the door got progressively worse. The Tenant said she spoke to the Landlord on October 27 and 29, 2008 and told her about the door. On the latter occasion the Landlord said she would have a look at it but did not do so. The Tenant said she left a message for the property manager on October 30, 2008 and asked to be contacted. The Tenant said when she

still heard nothing back from her requests, she gave the Landlord a letter on October 31, 2008 again asking her to fix the door.

The Landlord said the first she heard about the problem was October 31, 2008 and that she went by the rental unit that day. The Landlord said she saw that the Tenant's door was closed so she was confused by the Tenant's complaint that the door would not close. The Landlord sent the Tenant a letter dated November 3, 2008 and asked her to specify what the problem was. The Landlord also advised the Tenant that a repair person would be by on November 4, 2008 and could look at the door at that time. The Tenant responded to the Landlord on November 3, 2008 that she had had a locksmith in to repair the door. The Tenant claimed the key lock had to be taken apart, the tumblers reset and the lock holes readjusted.

The Landlord did not dispute that the Tenant's door probably needed to be fixed, however, she claimed that the Landlord probably could have done it at a reduced cost. She did not know what that cost would have been.

Analysis

Section 33 of the Act defines "emergency repairs" as being 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 a number of items including damaged or defective locks that give access to a rental unit.

I note that the Decision dated December 3, 2007 refers to other repairs having been done but not the door which was presumably the reason the order was made. In any event, I accept the Tenant's evidence that by the end of October, 2008, she could not lock the rental unit door when she left. As a result, I find that the repairs to the Tenant's door and lock were urgent and necessary for the safety and preservation of the rental unit property. I find that the Tenant made 3 attempts to contact the Landlord or property manager about fixing the door before sending a written request. I find that the Landlord had an opportunity to respond to the Tenant's written complaint on October 31, 2008 but chose instead to deliver a letter to her 3 days later. For that reason, I find that the Landlord had a reasonable opportunity to mitigate its damages by doing the repairs in a timely manner but failed to do so. Consequently, I find that the repairs in question were emergency repairs and that the Tenant is entitled to recover the cost of them from the Landlord.

Even if the repairs were not emergency repairs, I would find that the Tenant was entitled to be reimbursed for them as the Landlord was ordered over a year ago to make the repairs but failed to do so. As the Tenant has been successful in this matter, I find that she is also entitled to recover her \$50.00 filing fee for this proceeding.

Conclusion

A monetary order in the amount **\$139.25** has been issued to the Tenant and a copy of it must be served on the Landlord. The Tenant may deduct this amount of from her next rent payment when it is due and payable to the Landlord. Alternatively, if the Tenant does not deduct the amount from her rent, and the Landlord does not pay the amount, the order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an order of that court.