

## **DECISION**

Dispute Codes      OLC, RP, PSF

### Introduction

This hearing dealt with an application by the tenant for an order that the landlord comply with the Act, make repairs to the rental unit or residential property and provide services or facilities. Both parties participated in the conference call hearing.

At the hearing the tenant asked to amend his claim to include a claim for compensation for loss of quiet enjoyment. The landlord objected to the amendment of the claim. I ruled on this request at the hearing and denied the tenant's request to amend the claim for the following reasons. The landlord had no notice of the monetary claim until the hearing began and therefore no opportunity to prepare a reasoned response with the assistance of the various departments within the corporation. Although there was an acknowledgment that the tenant had been without services for a period of time, the question of quantum of damages could best be addressed when each party had opportunity to present reasoned argument. Further, the repairs to the property had not yet been made as of the date of the hearing and it is possible the tenant will continue to suffer further loss of quiet enjoyment until the repairs are complete. The tenant made no argument that he is suffering a financial loss due to the loss of services which may result in him being unable to pay his rent, therefore the prejudice to the landlord in permitting the amendment is far greater than the prejudice to the tenant in denying the amendment. The tenant may bring a future claim for compensation and the parties are free to settle the matter between themselves if they are able to come to an agreement.

### Issues to be Decided

Should the landlord be ordered to perform repairs?

Should the landlord be ordered to comply with the Act?

Should the landlord be ordered to provide services or facilities?

## Background and Evidence

The parties agreed that for a period of time there have been significant problems with water pressure in the building, the effect of which has been to make bathrooms, sinks and bathtub and shower facilities unusable. The landlord confirmed that the City of Vancouver had inspected the residential property and issued an order requiring certain repairs to be made no later than May 29, 2010. The landlord had not had opportunity to submit the order into evidence, but read the order aloud at the hearing. The order included instructions to ensure that all the bathing facilities, toilets and sinks were operational and further instructions to restore water pressure to the building. The landlord testified that a water pressure regulating valve was being installed on the day of the hearing.

## Analysis

The tenant and his advocate confirmed that compliance with the order of the City of Vancouver would satisfy the tenant's request for a repair order. I therefore order the landlord to comply with the order issued by the City of Vancouver no later than May 29, 2010.

At the hearing there was some discussion as to whether the residential property had a sufficient number of toilets, sinks and bathing facilities to bring it into compliance with the city of Vancouver's Standards of Maintenance By-law No. 5462. The tenant indicated that the landlord should be ordered to come into compliance with that by-law. Section 32(1) of the *Residential Tenancy Act* requires landlords to provide and maintain property in a state of decoration and repair that complies with the health, safety and housing standards required by law. This section gives me the authority to order the landlord to comply with applicable laws with respect to repairs. However, if the tenant is correct and the residential property does not contain the minimum number of toilets, sinks and bathing facilities as required by the by-law, the issue extends far beyond the scope of repairs and upgrades to the property are required. In my view, this exceeds the powers given to me by the statute. The tenant is not left without a remedy, but may

encourage the City to enforce its by-laws. For this reason I decline to issue any order with respect to ordering the landlord to comply with the by-law or to provide additional facilities which are not currently present in the building.

### Conclusion

The landlord is ordered to comply with the order of the City of Vancouver dated April 29, 2010.

Dated: May 07, 2010

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