

DECISION

Dispute Codes: MNDC, MNR, MNSD, RR, FF

Introduction

This is the Tenant's application to cancel a Notice to End Tenancy for Cause; to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided; for a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement, and for the cost of emergency repairs; for return of the security deposit; and to recover the cost of the filing fee from the Landlord.

Preliminary Matters

At the outset of the Hearing, it was determined that the Tenant moved out of the rental unit on June 13, 2010. Therefore the Tenant's applications to cancel the Notice to End Tenancy for Cause and for a reduction in rent are dismissed because the tenancy has ended.

Issues to be Decided

- Are the Tenants entitled to a Monetary Order for the cost of repairs to the rental unit?
- Disposition of the security deposit.

Background and Evidence

The rental unit is a cabin that was built in 1863, and renovated in 1960. There is no written tenancy agreement between the parties.

The Tenant and his witness provided the following testimony

The Tenant testified that he provided the Landlord with a security deposit in the amount of \$400.00 on March 27, 2010.

The Tenant testified that he first saw the cabin on March 27, 2010, and that it was in need of cleaning and repair. The Tenant had a roommate. The Tenant testified that the parties agreed that the Tenant's roommate and the Tenant would make renovations to the cabin in lieu of rent. The Tenant and his roommate would provide the labour and the Landlord would provide the materials. They agreed on a time frame of three months for the renovations to be complete. Renovations were to include gutting the bathroom and attic, installing new drywall and insulation and redoing the kitchen floors.

The Tenant testified that the tenancy was to begin on April 15, 2010. The Tenant testified that he lived in the cabin on weekends only and never fully moved in.

On May 16, 2010, the Tenant received an e-mail from the Landlord requesting rent in the amount of \$800.00 for the period of May 15, 2010 to June 15, 2010. The Tenant felt they had done a lot of work and decided to provide the Landlord with an invoice to show what they had done. The Landlord issued a Notice to End Tenancy for unpaid rent on May 19, 2010.

The Tenant seeks a Monetary Order in the amount of \$3,287.00, comprised of \$2,487.00 for the unpaid invoice, \$400.00 for return of the security deposit, and \$400.00 for the Tenant's travel costs to and from the cabin.

The Tenant's witness is his roommate. The Tenant's witness testified that he helped the Landlord to move out of the cabin on April 15, 2010, but it was not ready for occupancy. He stated that he moved into the cabin on April 30, 2010 and moved out of the cabin on May 30, 2010.

The Landlord gave the following testimony

The Tenant's roommate told the Landlord that he was a carpenter and that he could redo the kitchen floor and some work in the attic. The Landlord testified that she didn't agree that the walls in the attic could be removed and drywall installed in its place. The Landlord testified that she only authorized one month's free rent in exchange for labour. The Landlord testified that the renovations that were done were not to Code, and would have to be re-done. The Landlord testified that she had paid \$750.00 in materials

The Landlord stated that the invoice the Tenant provided appeared contrived. She stated that the attic was only approximately 700 square feet, and the Tenant had billed for 87.5 hours on the attic alone. The Landlord testified that she was surprised to hear that the Tenant had moved out because he did not return the keys and still had some of his furniture in the cabin. The Landlord stated that the Tenant did not advise her that he had moved out of the cabin.

The Landlord did not dispute that the Tenant paid a security deposit in the amount of \$400.00.

The Landlord has not filed an Application for Dispute Resolution against the Tenant.

Analysis

It is important to note that neither party provided documents in evidence to each other or to the Residential Tenancy Branch until 2 days prior to the Hearing. The Notice of Hearing documents explain service provisions. Documents must be served on the other party and provided to the Residential Tenancy Branch at least 5 clear business days before the Hearing. There was no written tenancy agreement between the parties, contrary to the provisions of Section 13 of the Act. The parties entered into a verbal

contract for services, the terms of which are in dispute. The Residential Tenancy Branch has no jurisdiction over service agreements. Therefore, the Tenant's application with respect to his claim for the cost of making repairs to the Landlord's cabin and travel costs is dismissed.

The remaining portion of the Tenant's application is with respect to the security deposit. The Tenant and his roommate testified that they no longer live at the cabin. Therefore, I order the Landlord to return the security deposit in the amount of \$400.00 to the Tenant within 15 days of receipt of this Decision.

The Tenant's application is largely without merit, and he is not entitled to recover the cost of the filing fee from the Landlord.

I hereby provide the Tenant with a Monetary Order against the Landlord in the amount of \$400.00, representing return of the security deposit. No interest has accrued on the deposit.

Conclusion

I hereby provide the Tenant with a Monetary Order in the amount of \$400.00 against the Landlord. This Order must be served on the Landlord and may be filed in the Provincial Court of British Columbia (Small Claims Court) and enforced as an Order of that Court.

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: July 20, 2010.

Dispute Resolution Officer