

## **DECISION**

**Dispute Codes:** MNDC, MNSD, OLC, RP, RR and FF

### **Introduction**

This application was brought by the tenant seeking a Monetary Order for damage or loss under the rental agreement arising from the landlord having taken hydro out of his name resulting in a disconnect order among other actions that forced the tenant to leave the tenancy prematurely.

As the tenancy has ended, the tenant's requests for Order for landlord compliance, repairs and a rent reduction are dismissed as moot.

Despite having been served with the Notice of Hearing sent by registered mail on September 17, 2010, the landlord did not call in to the number provided to enable his participation in the telephone conference call hearing. Therefore, it proceeded in his absence.

### **Issues to be Decided**

This application requires a decision on whether the tenant is entitled to various monetary losses arising from the landlord's breach of the *Act* and rental agreement.

### **Background, Evidence and Analysis**

This tenancy began on March 1, 2009. Rent was \$1,250 per month plus 60 percent of utilities and the landlord holds a security deposit of \$625. The tenant moved out of the rental unit on September 16, 2010 although some belongings remained for the remainder of the month.

During the hearing, the tenant stated that she had brought this application with some reluctance as she had had a good relationship with the landlord who lived in the lower suite of the home. However, she said matters took a turn for the worse when the landlord began having some personal domestic challenges.

She said that had led to some confusion as the landlord began to equivocate on number of issues at one point listing the house for sale then delisting it, saying that he was moving instead, that the tenants were permitted to have as many vehicles on the lot as they wished, then demanding they be removed and even sending a tow truck, then saying they could stay as he was not selling.

The turning point came when the landlord advised the tenant that he was moving and that she would have to put the hydro in her name. She stated that she did not agree to that because the thermostat was downstairs and it would make her responsible for the hydro for whoever moved in downstairs and without recourse if they didn't pay her their 40 percent share.

The landlord refused to move the thermostat and insisted that the tenant put the hydro in her name and he closed his account. The tenant called BC Hydro on September 9, 2010 and was advised that the landlord had closed his account on September 1, 2010 and there was a disconnect order pending for the residence.

The tow truck incident occurred on September 10, 2010, and while the tenant was able to dissuade the tow truck operator, she stated that her two children were traumatized by

the confrontation with the landlord. The landlord had previously allowed two vehicles. The tenant said that confrontation occurred following a period of severely stressful exchanges with the landlord, including an incident in which he roughly moved one of children's new bicycles, which had made her children fearful and uncomfortable remaining in the residence.

The tenant checked again with BC Hydro on September 13, 2010 and was again advised of the pending disconnect order. She stated that the landlord had advised her on September 15, 2010 that the hydro would be disconnected the following day.

The tenant moved her children to her in-laws' bachelor suite that day, and followed herself the following day.

The tenant claims and I find as follows:

**Return of security deposit - \$625.** As this application was brought on September 16, 2010, I cannot consider ordering the landlord to pay the deposit in double pursuant to section 38(6) of the *Act*. However, I find that the landlord must return the deposit and this claim is allowed.

**Return of one-month's rent - \$1,250.** The tenant paid the rent and had full use of the rental unit for only two weeks of September. I find that by taking the hydro out of his name without consent of the tenant, the landlord breached section 14 of the *Act* by unilaterally changing a material term of the rental agreement. I further find that action was unconscionable within the meaning of *Regulation 3* under the *Act* in that it was grossly unfair. Therefore, I find that the landlord's actions precipitated the untimely end of the tenancy and I find it ended on September 16, 2010.

As the tenant had full use of the rental unit for two weeks, I find that she is entitled to return of the rent for the second two weeks in the amount of \$625.

**Room and board with inlaws - \$1,000.** I find that the award for return of two weeks rent is fair compensation for the tenant's accommodation expense for the period in question. This claim is dismissed.

**Cost of move - \$500.** The tenant stated that because of the urgency of the move she had to enlist the aid of two friends with trucks for whom she paid gas and eating expenses. As tenants are usually faced with moving expenses at the end of a tenancy, a claim of this sort is rarely awarded. However, I find that the tenant is entitled to compensation of \$100 in view of the urgency of the move resulting from the landlord's breach.

**Paint and suffering - \$1,125.** This item would be identified as loss of quiet enjoyment under the *Act*. While I find that there was some loss of quiet enjoyment due to the landlord's equivocation, in view of the other findings in favour of the tenant, I reduce the award on this claim to \$50.

**Filing fee - \$50.** Having found merit in the application, I find that the tenant should recover the filing fee for this proceeding from the landlord.

Thus, I find that the landlord owes to the tenant an amount calculated as follows:

Return of security deposit	\$625.00
Return one-half of September rent	625.00
Cost of moving	100.00
Loss of quiet enjoyment	50.00
Filing fee	50.00
<b>TOTAL</b>	<b>\$1,450.00</b>

## **Conclusion**

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for \$1,450 for service on the landlord.

October 21, 2010