



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes DRI, MNDC, OLC, ERP, RP, RR

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking for an order to overturn a rent increase; a monetary order; an order to have the landlord comply with the Act, regulation or tenancy agreement; an order to make repairs and emergency repairs; and an order to reduce rent for repairs not provided.

The hearing was conducted via teleconference and was attended by the tenant only. The landlord did not attend the hearing.

The tenant provided documentary evidence confirming the landlord was served with notice of this hearing via registered mail on November 25, 2010. Based on this evidence, I accept the landlord was served in accordance with the *Residential Tenancy Act (Act)* and sufficiently for this hearing.

At the outset of the hearing the tenant testified that the landlord spoke with her recently and agreed to make the repairs and reduce the rent for December, 2010 and January 2011 to \$450.00 in compensation, if the tenant called the hearing and withdrew her application. The tenant states the landlord did not intend to attend the hearing.

The landlord did not attend the hearing and the tenant did not withdraw her application.

Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to cancel a rent increase; to a monetary order for loss or damage; for an order to have the landlord make repairs and emergency repairs; and to reduce the tenants rent until such repairs are made, pursuant to Sections 32, 33, 42, 43, 67, and 72 of the *Act*.

Background and Evidence

The tenant testified the tenancy began in December 2009 as a month to month tenancy for a monthly rent of \$500.00 due on the 1st of the month and a security deposit was paid. The tenant states also that rent was then increased in February 2010 to \$600.00 and again it was increased on July 1, 2010 to \$700.00.

The tenant testified that no written tenancy agreement was provided by the landlord but the tenant did submit a copy a Ministry of Housing and Social Development Shelter Information form, signed by the landlord on February 21, 2010 indicating the rent was \$600.00.

The tenant has submitted several photographs showing the condition of the rental unit including pictures showing the heating duct work is not connected; some of the wiring; water damage from leaks from the upstairs rental unit; doors without door knobs including the back door to the rental unit.

The tenant also testified that all the plumbing leaks; the oven that was recently replaced does not work; there appears to be mould throughout the rental unit and that they have no heat at all.

Analysis

Section 42 of the *Act* states that a landlord cannot impose a rent increase for at least 12 months after the start of a tenancy or the last rent increase. Section 42 stipulates that a rent increase must be calculated in accordance with the regulations. The Residential Tenancy Branch annually publishes the acceptable rent increase rate on its website <http://www.rto.gov.bc.ca/>. The allowable rent increase for 2010 is 3.2%.

While the tenant states that the tenancy began at monthly rent of \$500.00 she has provided no evidence to support this, however, she has provided the Shelter Information document that states her rent in February was \$600.00. As such, I find the starting rent amount is \$600.00 per month.

I further find that since the tenancy began in December 2009 the landlord was not able to increase rent until at least December 2010 and as such the rent increase of 16.7% to \$700.00 effective July 1, 2010 to be non-compliant with Section 42 and 43 of the *Act*. As a result, I find the tenant is entitled to the return of \$100.00 per month for the months of July through to November 2010.

Section 32 of the *Act* stipulates the landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and having regard for the age, character and location of the rental unit makes it suitable for occupation by a tenant.

Based on the photographic evidence and undisputed testimony provided by the tenant, I find the landlord is not compliant with Section 32 of the *Act*, particularly that the landlord has not provided or maintain the unit in a manner that make it suitable for occupation.

As such, I order the landlord to:

1. Have the entire rental unit assessed by a certified mould specialist to determine if there is any mould present in the rental unit and to then have any mould found removed by a certified mould abatement specialist;
2. Have the heating system and duct work in the rental unit checked and repaired by a certified heating specialist to ensure each room of the rental unit has adequate heating;
3. Have the electrical systems and wiring for the entire residential property checked and repaired by a certified electrician as required to ensure the wiring meets local minimum code requirements;
4. Have the plumbing for the entire residential property checked and repaired by a certified plumber;
5. Ensure all doors in the rental unit have appropriate hardware, including door knobs and locks, where required; and
6. Ensure the stove and oven work properly.

I also order the tenant may reduce all future rent payments, including December 2010 to \$450.00 until such time as the landlord completes all of the above orders and obtains an order from a Dispute Resolution Officer that the landlord may reinstate the rental amount to the full rent payable according to the rental agreement and any subsequent rent increases that have been made in accordance with the *Act*.

Conclusion

Based on the above, I find that the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$500.00** comprised of overpaid rent. In accordance with Section 72(2)(a) I order the tenant may deduct this amount from future rent payments until the full debt has been recovered.

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: December 15, 2010.

Dispute Resolution Officer