

DECISION

Dispute Codes: MNDC

Introduction

This application was brought by the tenant on July 23, 2010 seeking return of rent for the month the tenancy ended and moving expenses after the landlord failed to provide a new suite as promised and to provide a sanitary washroom.

Despite having been served with the Notice of Hearing sent by registered mail on July 26, 2010 to the only address the tenant had for the landlord, 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 matter requires a decision on whether the tenant is entitled a monetary order for the return of rent and moving expenses.

Background, Evidence and Analysis

This tenancy began on or about June 30, 2009 and ended on or about May 10, 2010. Rent was \$495 and the landlord held a security deposit of \$247.50.

During the hearing, the tenant gave evidence that, in the course of his tenancy, he had advised the landlord that the washroom he shared with a number of other residents was deplorably filthy. In response, the landlord gave him permission to use a washroom used by one other tenant and, on or about January 15, 2010, told him he could move shortly into another unit that was under renovation.

The tenant submitted photographs of the alternative bathroom showing an open ceiling and parts of the walls with bare insulation, a floor black with mold, and general dilapidation.

The tenant stated that the landlord had first told him he could move in to the new suite on February 20th, then March 1st, then postponed to April 1st, then not at all, then on April 6th, 2010. Negotiations were complicated by the fact that, according to the tenant, the landlord lives in another city most of the time.

The tenant lost faith in the landlord, advised him on April 22, 2010 that he was moving and gave vacant possession on or about May 10, 2010. The tenant stated a new tenant moved in shortly after. The security deposit has been returned and the landlord has compensated the tenant for a refrigerator he purchased with the landlord's consent.

The tenant seeks return of the May rent and moving expenses.

Analysis

On the basis of the tenant's testimony and the photographs of the washroom, I find that the landlord has breached section 32(1) of the *Act* by failing to maintain the rental unit in a stated of repair that complies with health, safety and housing standards required by law.

For that reason, I find that the tenant was justified in giving short notice by section 45(3) of the *Act* which permits a tenant to do so when a landlord has not corrected a material breach of a rental agreement within a reasonable time.

Therefore, I find that the tenant is entitled to return of the balance of the May rent from the day after he moved out, May 11 to May 31, 2010. At $\$495/31 = \15.98 per diem x 20 days = \$319.60.

I further find that the tenant is entitled to recover his modest moving expenses of \$94.50 for which he has submitted a paid receipt dated May 10, 2010.

Thus, I find that the landlord owes to the tenant:

Return of 20 days of May 2010 rent	\$319.60
Moving expenses	94.50
TOTAL	\$414.10

Conclusion

The tenants' copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia, for **\$414.10** for service on the landlord.

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December 14, 2010