

## **DECISION**

Dispute Codes      MNDC, OLC, RP, RR, FF, O

### Introduction

This is an application by the Tenant for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, the Landlord's action to comply with the Act, regulation or tenancy agreement, to make repairs to the unit, site or property, to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided and to recover the filing fee.

Both parties attended the hearing by conference call and gave testimony.

### Issue(s) to be Decided

Is the Tenant entitled to a monetary order for utilities?

Is the Tenant entitled to an order to have the Landlord comply with the Act, regulations or tenancy agreement or make repairs?

Is the Tenant entitled to reduce rent for repairs, services or facilities agreed upon but not provided?

### Background and Evidence

Both parties agree that this tenancy began on February 1, 2011 and that there is a signed tenancy agreement, but neither has submitted it into evidence. The Landlord states that the monthly rent is \$800.00.

The Tenant has submitted evidence of BC Hydro and Pacific Northern Gas Invoices. The Tenant is seeking the recovery of 25% totalling, \$285.00. The Tenant is seeking the recovery of this amount because there was another Tenant living in a separate 1 bedroom suite which her utilities were tied to. Both parties agree that the utilities clause reads as, "the tenant is responsible for all utilities." Both parties also agreed that the tenancy agreement stipulated is for the address of 230 Alberta Place, Prince Rupert, B.C. where the Tenant resides, and that there is no mention of the utilities for the separate unit to be a part of this tenancy agreement. The Landlord states that the unit was "as is" when the Tenant moved in and has been this way for a number of years. The Landlord stated that the Tenant was verbally informed of the utilities and that she would be responsible for them and that this was the reason for the \$800.00 monthly

rent. The Tenant disputes this stating that the extra costs are significant and that she would never have agreed to them.

The Tenant is seeking the Landlord's action to have the two chimneys inspected. The Tenant states that she made this request verbally to the Landlord at the beginning of the Tenancy. The Landlord disputes this stating that the upstairs chimney has not been in use for a number of years prior to the start of this tenancy and the lower level wood burning chimney was just inspected approximately 2 years previously. The Landlord states that the two chimneys are in the same condition as when the Tenant moved in at the beginning of the Tenancy and that the Tenant has never expressed a concern for safety or the lack of use until this hearing.

The Tenant is seeking repairs to the front living room window and that there is a basement front window broken which was reported verbally to the Landlord at the beginning of the Tenancy. The Landlord states that there is nothing wrong with the living room window and that the broken basement window is a double pane glass where the outer pane was broken and the glass was removed by him. The inner glass pane remains intact. The Tenant states that she has photographs of the broken windows but has not submitted them.

The Tenant is seeking the removal of a dish washer, full couch, broken mirror and a washer/dryer that the Landlord has stored in the basement of the rental unit. Both parties agree that these items are being stored in the basement and that it is part of the rental space. Both parties state that there is no storage clause in the Tenancy agreement to allow the Landlord to store items in the basement. The Tenant states that she has not previously made a verbal or written request for the Landlord to remove these items.

The Tenant is seeking repairs to the refrigerator consisting of two shelves in the door and one drawer. The Landlord states that the Tenant has never brought up this issue before and that the refrigerator was in this condition when she moved in.

The Tenant is seeking a key to the door lock on a porch door, stating that this is unsafe and that she could lock herself out of the rental. Both parties agree that the status of this door existed since the beginning of the tenancy. The Landlord states that there is no key and that one has not existed for a number of years prior to the start of this tenancy.

The Tenant seeks to have a house intercom system repaired as she states that it is non-functioning. The Landlord states that this system has been non-functioning for several years prior to the Tenant starting her tenancy and that it was not promised as part of the tenancy.

The Tenant is seeking the repair of a hole on her bedroom door, which she states that she informed the Landlord of at the beginning of her tenancy to address. The Landlord has stated, “no comment” on this issue.

The Tenant is also seeking the replacement of a door knob for her closet door which the Landlord was verbally notified at the beginning of the tenancy. The Landlord has stated, “no comment” on this issue.

The Tenant is seeking the reduction of \$200.00 in rent until these repairs are completed by the Landlord. The Landlord has stated, “no comment” on this issue.

### Analysis

As both parties have attended the hearing by conference call and the Landlord has confirmed receiving the Tenant’s notice of hearing and evidence package, I am satisfied that both have been properly served.

I am satisfied based upon the evidence provided by the Tenant and the direct testimony of both parties that the Tenant has established a claim for the recovery the utility costs of \$285.00. I find that it is not reasonable for the Tenant to assume the costs of another rental unit with nothing in writing or noted on the tenancy agreement. The Tenant should not be responsible for utility costs for a separate rental unit without their consent. The Tenant may make a one-time deduction of \$285.00 to withhold this amount from the next months rent due after receiving this decision.

The Tenant’s application to have the two chimneys inspected has not been substantiated. The Tenant has not provided any evidence to show an entitlement as part of the tenancy. The Landlord stated that the upstairs chimney due to the age has not been in use for many years and the Tenant has not provided any evidence that the use of the lower chimney is dependent of a safety inspection. The Landlord stated in direct testimony that the lower wood burning chimney was inspected two years previously and is good for use. The Tenant’s application on this issue is dismissed.

The Tenant has made a request for repairs on a front living room window but has not supplied any evidence to support this claim. The Landlord disputes this stating that there is nothing wrong with this window. I find that the Tenant has failed to provide any evidence to support this request and as such dismiss this portion of the application.

The Tenant has made a request for repairs on a broken pane of glass of a double pane glass window on the window in the front of the basement. The Landlord claims that this

is the responsibility of the Tenant, but has not provided any evidence and has not filed an application for dispute resolution. The Landlord has confirmed the broken pane of glass in his direct testimony and I find that the Landlord must repair this damage. The Landlord is directed to repair/replace the broken glass pane.

The Tenant has made a request to have the Landlord remove furniture being stored in the rental unit. Both parties have agreed that there is no provision in the tenancy agreement to allow the Landlord to do this. I am satisfied that the Tenant has established this portion of her application and I direct that the Landlord remove the dishwasher, couch, broken mirror and washer/dryer.

The Tenant has made a request for repairs of 2 refrigerator door shelves and 1 drawer being held together by tape. The Landlord disputes this request as he has stated that given the age and condition of the rental that this is not necessary. The refrigerator with the two shelves and drawer are functional. I find based on the lack of evidence provided by the Tenant and the Landlord's dispute on this issue that the Tenant has failed to establish her claim for this repair. The Tenant's application for repair on the refrigerator is dismissed.

The Tenant has made a request for repair of a porch door lock as she has not been given a key to this doorway. The Landlord states that no key exists for this doorway and that it has been this way for a number of years prior to this tenancy. I find that door access to the rental unit is a fundamental right of the Tenant. I direct that the Landlord re-key this lock or replace the lock and provide a key for access to this doorway.

The Tenant has requested the repair of a broken house intercom system. The Landlord states that this intercom has been non-functioning for a number of years previous to the start of this tenancy. The Tenant has not provided any evidence that this was a fundamental term of the tenancy or a requirement in housing standards, I dismiss this portion of the Tenant's application.

The Tenant has made a request for the repair or replacement of a hole in her bedroom door and with no comment or dispute by the Landlord I am satisfied that this is a basic housing standard requirement and that it must be addressed by the Landlord. I direct the Landlord to repair this hole or replace the door.

The Tenant has also made a request for the replacement of a missing closet door knob handle that was verbally reported to the Landlord. The Landlord has made no comment or dispute and I am satisfied that this is a basic housing standard requirement for the tenancy that must be addressed by the Landlord. I direct the Landlord to replace this item.

I find that as the Tenant has not made any formal written notices to the Landlord to address these issues, that this decision be the Landlord's written notice and that the Landlord will comply with these directions by July 31, 2011. If the Landlord does not comply with these directions, I order that the Tenant may withhold \$25.00 per month until the repairs are complete to the satisfaction of both the Landlord and the Tenant. In the event that there is a dispute over the repairs being complete, the Landlord may file an application for dispute resolution to resolve this matter.

The Tenant is also entitled to the recovery of the \$50.00 filing fee.

Conclusion

The Tenant may make a one-time deduction of \$335.00 from the monthly rent on the next months rent due after receiving this decision to recover the utility costs (\$285.00) and the (\$50.00) filing fee.

The Landlord is ordered to comply and make repairs as noted above. If the Landlord does not complete the repairs by July 31, 2011, the Tenant may reduce rent of \$25.00 per month starting August 1, 2011 until the Landlord completes the repairs.

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: June 24, 2011.

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Residential Tenancy Branch