DECISION

<u>Dispute Codes</u>   OPR MNR O FF
                            CNR ERP O FF

<u>Preliminary Issues</u>

At the outset of the reconvened hearing the Landlord's Agent asked if these proceedings were recorded. I informed him they were not. He then asked if there were transcripts available; which I advised there are not. The Landlord's Agent then asked if he was allowed to record this proceeding. I informed him that he was not allowed to privately record the hearing as per the *Residential Tenancy Branch Rules of Procedure #9.1* which provides that private audio, photographic, video or digital recording of the dispute resolution proceeding is not permitted.

The Landlord's Agent then began to argue that he should be allowed the opportunity today to provide additional testimony in response to the Tenant's testimony, as recorded in the November 07, 2011, decision as he feels he was not given an opportunity to respond in the previous hearing. I reminded the Landlord's Agent that he was given the opportunity to provide testimony and closing remarks just as the Tenant was and that he had ample opportunity to dispute the Tenant's testimony. He then began to argue that he mis-interpreted his opportunity and only provided closing remarks in response to his own application and not in response to the Tenant's application. I pointed out that the Landlord's Agent provided testimony in response to the Tenant's submission and that today we have reconvened to determine if my previous repair orders had been carried out. I explained that this was not an opportunity for the Landlord's Agent to reargue his case.

Then the Landlord's Agent requested that he be given the opportunity to request a correction of an obvious error. He began to argue that the Tenant's testimony, as noted in the November 7, 2011, decision was incorrect as she has never fully moved out of the rental unit. I explained to the Landlord's Agent that this was a record of what the Tenant had stated in her oral submission it was not a clerical error. I explained that he could not change what someone else said nor could he reargue his case today and that given the time that has passed since the previous decision were issued his recourse would be to file for a judicial review of the September 9, 2011 decision and my November 7, 2011 decision.

The Landlord's Agent then argued that he only recently received a copy of the November 7, 2011 decision and therefore he should be allowed to file for a review consideration.

Residential Tenancy Branch

#RTB-136 (2011/02)

I note that the Landlord is an association that is managed by a board of directors and that the Landlord's Agent who appeared at both the November 7, 2011 and November 28, 2011 hearings advised that he does not reside at the rental unit building, and it was the Agent who confirmed that the November 7, 2011 decision was to be sent to the board at the rental unit building. Therefore, while this Agent may have not received the November 7, 2011 decision until just prior to attending the November 28, 2011, hearing, the Landlord or board, ought to have been in receipt of the November 7, 2011 within five days of it being mailed, as directed by the Agent.

Introduction

This hearing convened on November 07, 2011, and reconvened for the present session on November 28, 2011. This decision should be read in conjunction with my decision of November 07, 2011.

The parties appeared at the teleconference hearing November 28, 2011, gave affirmed testimony, were provided the opportunity to present their evidence orally, in writing, and in documentary form.

Issue(s) to be Decided

1. Has the Landlord complied with my Orders to complete repairs and provide proof that the work was completed as Ordered?
2. If so, is the Landlord granted an Order to begin collecting rent for the rental unit?

Background and Evidence

In my November 7, 2011 decision I issued the following orders:

> I hereby order the Landlord to have the bedroom wall encapsulated and painted by a qualified contractor no later than **November 25, 2011.**
>
> I am Ordering that this hearing be adjourned and reconvened at a future date in order to assess the word completed by the Landlord.
>
> The Landlord is Ordered to provide written documentation to the Residential Tenancy Branch and the Tenant proving the work has been completed in compliance with this Order and Worksafe BC procedures prior to attending the reconvened hearing as noted on the enclosed notice of reconvened hearing. I further order that no rent is payable by the Tenant to the Landlord until the

> *parties have attended the reconvened hearing and an Order is granted to the Landlord to begin collecting rent.*

A two page document was received by the *Residential Tenancy Branch* from the Landlord on November 25, 2011 which indicates the required repairs have been completed to the bedroom wall by a certified contractor, as ordered.

When I asked the Landlord's Agent if the wall had been painted or sealed after the asbestos containing material had been removed he advised that he has not inspected the work and that I should ask the Tenant as he was certain that she would have seen the completed work.

The Tenant confirmed the work was performed and the wall had been encapsulated with some sort of product but she could not say for certain what is was.

Analysis

I accept the evidence before me that the repairs were conducted as ordered.

The Tenant is now at liberty to fully occupy the rental unit effective immediately and the tenancy agreement is in full force and effect.

Conclusion

I grant the Landlord an Order to begin collecting rent, in accordance with their tenancy agreement, effective **December 1, 2011**.

As previously ordered, the Tenant is at liberty to reduce her December 1, 2011 rent payment by the onetime award of **$950.00**.

The Landlord has now complied with repair orders, therefore no further action is required and this file is hereby closed.

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: November 29, 2011.   _____