



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RP, OPC

Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act, regulations or the tenancy agreement, for the Landlord to make repairs to the property and for the Landlord to comply with the Act, regulations and the tenancy agreement.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on October 25, 2011. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is there a loss or damage to the Tenant and if so how much?
2. Is the Tenant entitled to compensation for the loss or damage and if so how much?
3. Are there repairs required to the property?
4. Has the Landlord complied with the Act, regulations and tenancy agreement?

Background and Evidence

This tenancy started in August 1, 2011 as a month to month tenancy. The Tenant moved into the rental unit on August 5, 2011. Rent is \$875.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$437.50 on August 1, 2011.

The Tenant said she has made this claim because the rental unit was unclean when she moved in, the Landlord has disturbed her quiet enjoyment of the property and the unit has a number of items that need to be repaired. The Tenant continued to say that because of these issues she is claiming \$1,917.10 in compensation for her inconvenience. The Tenant said her monetary claim is as follows:

1. Return of her August, 2011 rent in the amount of \$687.10 for cleaning costs and loss of privacy because of the Landlord’s repeated visits to the rental unit to do repairs.

2. Compensation of \$11.50 per day from September 1, 2011 to September 18, 2011 for loss of privacy and loss of quiet enjoyment of the property in an amount of \$207.00.
3. Compensation of \$4.00 per day for the front door which the Tenant says does not meet BC building code standards. The Tenant said she is claiming from September 14, 2011 to December 31, 2011 in an amount of \$436.00.
4. Compensation for a faulty gutter (in the Tenant's view) for the amount of \$4.00 per day from September 6, 2011 to the end of December, 2011 in the amount of \$393.00.
5. Compensation of \$30.00 per month for the Landlord not providing a carport for the Tenant's use from August 5, 2011 to the end of December, 2011, in the amount of \$144.00.
6. The Tenant said she has also applied for compensation for \$50.00 for stationary and postage expenses to make this application.

The Landlord said they have done everything that the Tenant has asked them to do to try to make the tenancy work. The Landlord continued to say the Tenant is not satisfied with their efforts and the Landlord said they don't understand why the Tenant is trying to get monetary compensation from them.

The Landlord said the unit was clean when the Tenant moved in; it was inspected by a representative of the British Columbia government as part of the Tenant's income assistance program. As well, the Landlord paid for a professional cleaner to clean the unit after the Tenant moved in. The Tenant confirmed the unit was inspected by BC Homes and the rental unit past the inspection. The Tenant also agreed that the Landlord paid for a professional cleaner to clean the unit on August 26, 2011. The Tenant said this was 4 days after her written request to the Landlord for cleaning of the unit and other repairs. The Landlord said the other repairs were done in August and in September, 2011.

The Landlord continued to say that they have only gone to the Tenant's unit as a result of her requesting something. The Landlord said her father has not looked in the windows and they have not interfered with the Tenant's privacy unless she requested the Landlord to do something for her. The Landlord said the normal course of events were the Tenant would request something to be done and then the Landlord would come to her unit and try to correct the item that the Tenant requested. The Landlord said some times the Tenant's requests would be for items that did not need fixing. The Landlord gave an example of a tape that the Tenant said was leaking and in fact it was not leaking.

The Landlord said the front door does meet BC building code standard requirements and it does not need to be repaired or replaced.

The Landlord continued to say the gutter was repaired by putting an extension on the gutter pipe to direct water away from the house. The Landlord said the extension is in full view and in their written evidence to the Tenant they advise the Tenant needs to use common sense when walking around the gutter pipe.

In addition the Landlord said the Tenant has a carport and on one occasion another tenant parked in the Tenant's carport. The Landlord said they corrected the situation with the other tenant that parked in the Tenant's carport. As well the Landlord said the Tenant does not have a car and she does not use the carport so they do not see where the problem is. The Tenant said she has talked to one of the other tenants who has parked his white truck in her carport more than once and he was not pleasant to her.

The Landlords concluded their remarks by saying they would like to end this tenancy because the Tenant has significantly interfered or disturbed the Landlord with monetary claims and numerous requests by the Tenant for assistance. The Landlord said they have issued a Notice to End Tenancy for Cause dated October 31, 2011 with an effective vacancy date of November 30, 2011. The Landlord and the Tenant said they both understood the Notice to End the Tenancy was not part of this hearing.

The Tenant concluded her remarks by saying this has been a frustrating tenancy because the unit was not clean when she move in, some items needed repair and she said the Landlord has interfered and disturbed her quiet enjoyment of the rental unit. The Tenant continued to say the Notice to End Tenancy for Cause dated October 31, 2011 is not signed; therefore it is not valid and she is going to ignore it.

Analysis

It appears from the evidence submitted and the testimony given at the hearing that communications between the Landlords and the Tenant have broken down. There was contradictory testimony provided by both the Tenant and the Landlords regarding the facts of the situation. In an application for compensation for damage or loss the applicant must prove the damage or loss actually exists, the applicant must prove the damage or loss happened solely because the respondent was in violation of the Act or an agreement, the applicant must verify the actual amount of damage or loss and the applicant must show what they did to mitigate or minimize the damage or loss. As well

the applicant must provide corroborating evidence or testimony to the evidence or testimony that the applicant has given. The burden of proving a monetary claim lies with the applicant / Tenant and when it is just the applicant/Tenant's word against that of the respondent/Landlord that **burden of proof is not met**. The Tenant has not provided any witness testimony or written statements, receipts or invoices that support her claims and there is no justification for the amounts that she is requesting for compensation. As well, the Tenant has not established that the Landlords have not complied with the Act or an agreement as the Landlords have responded to the Tenant's requests in a timely manner. The testimony was basically he said / she said from both the Tenant and the Landlord. Consequently I find the Tenant has not met the burden of prove nor has the Tenant established grounds to be awarded compensation for any of the Tenant's claims as a result of lack of evidence. I dismiss the Tenant's application without leave to reapply.

Conclusion

The Tenant's application is dismissed without leave to reapply.

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 16, 2011.

Dispute Resolution Officer