



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened in response to an application filed by the tenants seeking a monetary order for compensation for damage or loss and recovery of the filing fee paid for this application.

Both parties appeared at the hearing of this matter and gave evidence under oath.

Issue(s) to be Decided

Have the tenants met the burden of proving they are entitled to the compensation claimed? If so, should they recover the filing fee paid for this application?

Background and Evidence

The tenants testified that they had a friend view the rental unit on their behalf. The friend recommended the rental unit advising that the landlord had agreed to do certain work prior to the tenants' arrival. The tenants say they paid the landlord full rent of \$900.00 for May 2011. The tenant says the work to be done was not set out in writing because the tenants did not think this necessary. The tenants testified that they didn't think it was necessary to have this in writing because the work to be done was work required of a landlord to bring a rental unit up to the health and safety standards and make it inhabitable. The tenants say this is set out in the *Residential Tenancy Act*. The tenants say that when they arrived on May 12, 2011 they noticed that the work had not been done and they did not move in because it was an unhealthy environment with garbage and mould. The male tenant says the landlord agreed that he would do the work i.e. remove the garbage and paint however the tenants would be required to move their furniture into one room while the other was painted and vice-versa. The male tenant says he also noticed there was mould in the rental unit and he decided it was not inhabitable especially since the female tenant was pregnant.

The landlord says that he was in contact with the tenants and the female tenant advised him that she would like to clean the rental unit herself. The landlord says this is what all of his pregnant tenants like to do. The landlord says the tenants did not arrive until May 11, 2011 and it would have only taken a day or two to get the work he intended to do complete. In fact, the landlord says, he was able to complete the work in 2 days but the tenants still chose not to move in.

Analysis

Residential Tenancy Act policy states that a Landlord is responsible for ensuring that rental units and property, or manufactured home sites and parks, meet “health, safety and housing standards” established by law, and are reasonably suitable for occupation given the nature and location of the property. The tenants have failed in their burden of proving that there an unhealthy environment existed such that it would be reasonable to walk away from their tenancy agreement. However, based on the landlord’s testimony that he did agree to do some work and that he did not have the work completed by May 11, 2011 when the tenants had paid rent for the full month of May, I find that the landlord should return half of the months’ rent to the tenants, that is \$450.00 a sum which the landlord agreed would be reasonable.

As it is clear that the landlord was agreeable to resolving this matter I find that this application was unnecessary and could have been resolved between the parties. I will therefore make no award for recovery of the filing fee in this matter.

Conclusion

The tenants are provided with a formal copy of an order for the total monetary award as set out above. Should the landlord fail to comply with this Order, this Order may be filed and enforced as an Order of the Provincial Court of British Columbia.

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 08, 2011.

Residential Tenancy Branch