



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, OLC, ERP, RP, PSF, RPP, LRE, LAT, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for emergency repairs, money owed or compensation due to damage or loss, for the landlord to comply with the Act, for the landlord to make emergency repairs, to make repairs, provide services or facilities, return the tenant's personal property, suspend or set conditions on the landlord's right to enter, authorize a tenant to change the locks, allow a tenant to reduce rent for repairs and recovery of the filing fee.

Both parties participated in the conference call hearing.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

This tenancy began January 1, 2012 with monthly rent of \$750.00.

The tenant testified that the rental unit that she occupies is a garage that has been illegally converted into living space by the landlord. The tenant stated the rental unit has no smoke detectors, no kitchen stove, no fire escape, the only source of heat is a cracked wood stove, the electrical wiring is inadequate and run from the landlord's residence upstairs, there is no light in the kitchen, no outside light and the toilet constantly backs up. The tenant stated that there had also been a sewage flood from the upstairs, into the downstairs unit and some of her personal belongings had to be thrown out as a result. The tenant stated that because the electrical wiring is illegal and run from the landlord's residence, the breakers cannot handle the load and if the tenant has more than 2 items on the breakers constantly trip and have to be reset.

The tenant stated that all her belongings are damaged from wood smoke as the old wood stove has numerous cracks and smoke pours directly into the rental unit. The landlord countered this claim by stating that the antique wood stove smoked because the tenant did not know how to properly use it. The landlord stated that the wood stove

also acted as an oven for the tenant and that the tenant had a hot plate in the kitchen. The landlord stated that the tenant's toilet constantly plugs because the tenant puts too much toilet paper in the toilet. The landlord did acknowledge that the electrical to the tenant's rental unit is directly connected to the residence that the landlord occupies.

On February 17, 2012 the landlord served the tenant with a 'Rent in Arrears' document that states the rent is past due, there is a \$50.00 late fee and if payment is not received by February 20, 2012 the tenant will be evicted.

The tenant stated that the landlord has come into her rental unit without 24 hour written notice and on a number of occasions has 'filled her pockets up' with items of the tenants. The tenant stated that she did not have a list of items that she believes the landlord has taken. The landlord stated that she had been sewing for the tenant and that in lieu of payment the tenant had given her some small personal items.

The tenant stated that the January 2012 rent was paid but that she has not paid the February or March 2012 rent partially due to all the problems in the rental unit.

The landlord referred to the notice for unpaid rent and an eviction notice that she had served on the tenant and it was explained to the landlord that as these notices were not in the approved form, the notices were invalid. The landlord was also advised that the late fee and NSF fee noted on the tenancy agreement do not comply with the *Act*. The landlord was directed to the Residential Tenancy Branch website and/or Service BC office to obtain the proper notices and legislative guidelines as noted in the *Act*.

After much discussion the parties agreed to Mutually End the Tenancy effective March 31, 2012.

Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenant has met the burden of proving that they have grounds for entitlement to an order for the landlord to comply with the *Act*.

The landlord is to comply with the following as outlined below:

- Install smoke detectors to code – no later than April 2, 2012.
- Install a functioning kitchen stove - no later than April 2, 2012.
- Have the wood burning stove inspected - no later than April 2, 2012.
- Have the electrical wiring inspected - no later than April 15, 2012.
- The landlord is not to enter the tenant's rental unit without proper 24 hour written notice unless an emergency exists.
- The landlord is not to disconnect the electrical to the tenant's rental unit at any time.

As there have been and continue to be numerous issues with the condition and safety of the rental unit, I grant the tenant a one-time rent reduction in the amount of \$750.00.

In regards to the tenant's claim for compensation for repairs the tenant will be compensated \$48.90 for the outside light that was purchased. The balance of this portion of the tenant's application is dismissed without leave to reapply.

In regards to the tenant's compensation for loss or personal items the tenant is not entitled to compensation as the tenant has not provided a list or replacement cost of these items. Therefore this portion of the tenant's application is dismissed without leave to reapply.

By mutual agreement this tenancy will end March 31, 2012.

As the tenant has been successful in their application the tenant is entitled to recovery of the \$50.00 filing fee.

Conclusion

By mutual agreement this tenancy will end March 31, 2012.

The tenant may deduct \$848.90 from rent owed to the landlord for recovery of the above compensation and the \$50.00 filing fee paid to bring their application forward.

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: March 13, 2012

Residential Tenancy Branch