



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OLC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act*, for an order seeking landlord's action to comply with the *Act*. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

The tenant stated that she had filed evidence on March 19, 2012. Since this evidence is late and was not received in time for this hearing, it was not used in the making of this decision.

Issues to be decided

Is the landlord contravening the *Act* by forbidding the use of dishwasher and laundry machines inside the rental unit?

Background and Evidence

The tenancy started on December 01, 2002. The rental unit is an apartment located in a complex that houses 29 rental units. The building is 47 years old. The landlord filed a copy of the tenancy agreement and highlighted a portion of clause 15 entitled "Use of Premises". The highlighted portion states "*Heavy appliances or equipment of any kind may not be installed by the tenant without written permission of the landlord*"

In April 2011, during a routine inspection of the rental unit, the landlord noticed the presence of a dishwasher and a laundry machine inside the rental unit. The tenant was served with a notice to cease using these appliances. The tenant stated she spoke with the building manager about the issue and he "shrugged his shoulders" and therefore the tenant understood that it was ok to continue using these appliances.

The tenant was served with letters in May 2011 and February 2012 regarding the same issue. These letters requested her to cease using these appliances. On February 23, 2012, the tenant made this application requesting an order directing the landlord to allow the tenant the use of these appliances inside the rental unit.

The landlord testified that the building was not constructed to accommodate the use of equipment such as dishwashers and laundry machines inside the rental units. Laundry facilities were located in a common area that is just outside the tenant's apartment.

The landlord filed two letters written by professional plumbers that confirm that that this building was not built to accommodate portable washing machines and dishwashers as the drains are undersized and the traps on the kitchen sink are not large enough to deal with the quantity of water used by such equipment. One letter goes on to say that use of these machines will be illegal under the drain, waste and vent sizing tables and articles noted in the BC Plumbing Code (2010) and National Building Code.(2010) and failure to adhere to Code Requirements will have adverse effects such as building damage and possible forfeiture of insurance benefits should damage occur.

The landlord also confirmed that in the event of a flood or other damage, the insurance company would not cover the cost of repair, if the building activities were not in compliance with the Building Code.

The tenant argued that the plumbers have cited the wrong building code. She stated that her machines were not permanently "installed" as she hooked them up only at the time of use. The tenant also provided a doctor's letter that states that she has a condition that renders her unable to use a standard washing machine.

Analysis

Landlord and tenant obligations to repair and maintain

32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Based on the documentary evidence and sworn testimony of both parties, I find that the building is 47 years old and not equipped with adequate plumbing and drainage to accommodate the use of portable dishwashers and laundry machines.

Section 32 states that the landlord must maintain the rental unit in a state that complies with the safety and housing standards and having regard to the age of the rental unit make it suitable for occupation.

As per the tenancy agreement, laundry facilities are provided to the tenant in a common area. Based on the letters written by professional plumbers and filed into evidence by the landlord, I find that if tenants were allowed to use additional equipment inside these rental units, it could result in sewer back up and other plumbing problems. In addition non compliance with the Building Code is illegal and may result in the forfeiture of insurance benefits in the event of flooding and other damage.

Based on the above, I am unable to order the landlord to allow the tenant the use of her dish washing and laundry equipment inside the rental unit.

Conclusion

The tenant's application is dismissed in its entirety.

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 22, 2012.

Residential Tenancy Branch