



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, PSF

Introduction

This hearing concerns the tenants' application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and an order instructing the landlord to provide services or facilities required by law. Both parties participated in the hearing and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenants are entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

Pursuant to a written tenancy agreement, the fixed term of tenancy is from June 15, 2012 to June 15, 2013. Monthly rent of \$1,100.00 is due and payable in advance on the first day of each month. A security deposit of \$550.00 and a pet damage deposit of \$200.00 were both collected.

By letter to the landlord dated September 10, 2012, the tenants set out a range of concerns about the unit which include, but are not limited to, inadequate heat. The landlord's agents testified that gas heats the water which in turn heats the units by way of hot water radiators; the thermostat for the entire building is located in the boiler room. The landlord's agents also testified that they have received no similar complaints about inadequate heat from any of the other residents in this older building which is comprised of 45 separate units.

As to other concerns identified by the tenants, the landlord's agents point out that none of these appear as problems on the move-in condition inspection report. In that regard, the tenants claim that the landlord's agent was not properly attending to the identification of various concerns in the unit at the time of the move-in condition inspection. In response to that claim, the landlord's agents point out that neither tenant took an opportunity to note on the move-in condition inspection report that they "do not

agree that this report fairly represents the condition of the rental unit.” On the contrary, the tenants acknowledged by way of signature on the move-in condition inspection report that they “agree that this report fairly represents the condition of the rental unit.”

During the hearing the parties undertook to schedule a mutually agreeable time when the landlord’s agents will attend the unit in order to assess and, if deemed necessary, remedy particular concerns raised by the tenants.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 32 of the Act speaks to **Landlord and tenant obligations to repair and maintain**, and provides as follows:

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.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord’s obligations under subsection (1)(a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Section 63 of the Act addresses the **Opportunity to settle dispute**. Pursuant to this provision the parties agreed as follows:

- that the landlord's agents will attend the unit at **2:00 p.m. on Thursday, October 4, 2012**, at which time the tenants will permit entry for the purpose of assessing and, where deemed necessary, remedying certain of the tenants' miscellaneous concerns.

In the meantime, however, based on the documentary evidence and testimony, I find on a balance of probabilities that there is insufficient evidence that the unit fails to "comply with the health, safety and housing standards required by law," or that the landlord has restricted a service or facility (heat), or that the "emotional and mental anguish" claimed by the tenants is sufficient to justify entitlement to the compensation claimed. In the result, the application must fail.

Conclusion

The tenants' application is hereby dismissed.

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: September 28, 2012.

Residential Tenancy Branch