



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was a hearing with respect to the tenants' application for a monetary order. The hearing was conducted by conference call. The tenants and the landlord's representatives called in and participate in the hearing

Issue(s) to be Decided

Are the tenants entitled to a monetary order and if so, in what amount?

Background and Evidence

The rental unit is a one bedroom suite in a house in Vancouver. The tenancy began in March, 2012. There is no written tenancy agreement. The tenants testified that the landlord promised them use of the laundry facilities. The tenants testified that the landlord did not supply heat to the rental unit which caused the tenants to suffer colds, fevers and headaches. The female tenant claimed that she lost her job because she had too many days off due to sickness.

The tenants said that the landlord promised them use of the laundry facilities one day per week, but after they moved in he told them they could not use the laundry and they would have to make other arrangements. The tenants said that they did not attempt to use the laundry facilities, but the other occupants of the rental property used the laundry late at night and the noise was very disturbing to the tenant who is pregnant. The tenants said that other occupants deliberately used the laundry late at night to harass the tenants.

The tenants testified that on January 8, 2013 the laundry was running after 10:00 P.M. They contacted the landlord. The landlord told them he would call and tell them to stop the laundry. The tenants said that the laundry started up again at 10:40 P.M. and the female tenant, who was very tired and feeling unwell, went into the laundry room and turned off the machine.

The tenants said that the following day the landlord accused them of breaking the lock on the door to the laundry room. The tenants denied this; they said there was no lock on the door. The tenants testified that later that day, when they were out, someone broke into the rental unit and threw things around; at the same time they changed the lock to the laundry. The tenants said the \$700.00 in cash was stolen from a drawer in the bedroom. The tenants called the police and reported the theft. The tenants blame the landlord or the other occupants for the theft. The tenants accused the landlord's property manager of breaking into the bedroom of the rental unit when he came to change the lock.

The tenants claimed a monetary award in the amount of \$4,000.00. The tenants claimed this amount as compensation for the stolen cash, for the lack of heat because the landlord would not turn on the heat until October, because the oven was not working properly and for the tenant's loss of her job; the tenants said that their illnesses were due to the lack of heat.

The landlord's representatives disputed all of the tenants' claims. The landlord's representative testified that laundry services were not included as part of the tenancy. He referred to a copy of an internet advertisement from November, 2011. The advertisement for the rental unit described the unit as a "1 bedroom ground level suite (no laundry)". The landlord's representative said that the principal tenant of the house rented rooms to home- stay students and he arranged with the landlord to have the exclusive use of the laundry facilities. He said that after the tenants moved in they asked the landlord if he could arrange for them to have the use of the laundry one day per week. The landlord's representative asked the other occupant, but he would not agree to the proposal because he had arranged for the exclusive use of the laundry for himself and his students; the landlord told the tenants that they would not be permitted to use the laundry.

The landlord's representative said that the upstairs occupants complained that the tenant did use the laundry and, at their request, he installed a chain lock on the laundry room door leading to the tenants' unit. It was this chain that was broken on January 8th. The following day he came to the rental property and installed a proper lock on the door from the tenants' unit to the laundry room. The landlord's representatives denied disturbing the tenants' belongings or taking any money from the rental unit.

The landlord's representative investigated the tenants' complaints with regard to heat. He said there was no problem with the supply of heat; in fact when he measured the temperature it was very hot, 25 degrees centigrade in the rental unit.

The landlord's representative did acknowledge that one of the two heating elements in the oven was not working.

The tenants said that the advertisement produced by the landlord was fictitious because the phone number in the ad was not the landlord's number to whom they responded when they inquired about renting the unit, but was the cell number of the landlord's representative.

The tenants referred to pictures of text messages they claimed to have sent to the landlord to support their position that they were promised laundry and that they were deprived of heat.

Analysis and conclusion

The tenancy began in March 2012, however, it was not until January 2013 that the tenants made application concerning the issue of laundry facilities. The tenants submitted what are said to be pictures of text messages sent to the landlord, but the tenants did not make any requests in writing to the landlord concerning the use of the laundry or concerning the provision of heat. It was not until after an incident on or about January 8, 2013 that the tenants made this application. The tenants accepted the tenancy and the absence of laundry facilities for ten months before raising it as an issue. On the evidence presented, I am unable to conclude that the tenants were promised laundry facilities and that it was a term of the tenancy. The landlord should have prepared a written tenancy agreement at the start of the tenancy, but the landlord's failure to do so does not alter the burden of proof on this application; I find that the tenants have not proved that use of the laundry was included in the tenancy.

With respect to the provision of heat, had the lack of heat been a serious concern then the tenants should have made a formal written request to the landlord followed by an application to the Residential Tenancy Office if the problem was not addressed. I find that the tenant's alleged text messages do not constitute proof that there was a serious problem with lack of heat and a failure on the part of the landlord to address it. There is no medical evidence to substantiate the claims of illness and the claim that the lack of heat resulted in a loss of employment and consequent income loss is speculative and remote and I therefore do not allow this claim.

The tenants claim that the landlord is responsible for the theft of \$700.00 from the rental unit. The tenants have not provided evidence to prove on a balance of probabilities that the landlord's representatives took the money or are somehow responsible to the tenants for its loss. The above claims are dismissed without leave to reapply.

The only claim that has merit is the claim with respect to the oven. If he has not already done so, I direct the landlord to forthwith repair the oven to ensure that both elements are functioning properly. The tenants' claims for a monetary award are 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: February 26, 2013

Residential Tenancy Branch

