



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, RP, RR

Introduction

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for a monetary Order for money owed or compensation for damage or loss; for an Order requiring the Landlord to make repairs; and for authorization to reduce the rent for repairs, services, and facilities agreed upon but not provided.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

The Landlord submitted documents to the Residential Tenancy Branch, copies of which were served to the Tenant. The Tenant acknowledged receipt of the Landlord's evidence and it was accepted as evidence for these proceedings.

The Tenant submitted documents to the Residential Tenancy Branch but the documents were not served to the Landlord as evidence for these proceedings. As the documents were not served as evidence for the proceedings, they were not accepted as evidence for these proceedings. After being advised that these documents could not be referred to when determining this matter, the Tenant elected to proceed with the hearing.

Issue(s) to be Decided

Is the Tenant entitled to compensation for living with a variety of deficiencies in the rental unit and is there a need for an Order requiring the Landlord to make repairs to the rental unit?

Background and Evidence

The Landlord and the Tenant agree that this tenancy began in October of 2012 and that the Tenant is obligated to pay monthly rent of \$1,050.00 by the first day of each month.

The Landlord and the Tenant agree that the shortly after the tenancy began the Tenant reported that the roof was leaking; that the Landlord covered the roof with a tarp on the day the problem was reported; that the roof leaked again two days later so the Landlord re-tarped the roof and provided the Tenant with buckets; that the roof leaked again approximately two weeks later; that the Landlord applied additional tarps; and that the Landlord assisted the Tenant with drying the carpets that had been soaked as a result of the leaking roof.

The Landlord stated that he did not receive any further reports of the roof leaking and that he had it repaired by January 07, 2013. The Tenant with the initials "T.D." stated that the roof did continue to leak, to some degree, down one wall during heavy rains, and that the roof was repaired on January 28, 2013.

The Landlord and the Tenant agree that the furnace in the rental unit did not function properly at the start of the tenancy. The Tenant with the initials "T.D." stated that initially the thermostat did not activate the furnace, so the furnace had to be operated manually, and that in November it stopped working altogether. She stated that the problems were reported to the Landlord as soon as they were noted; that the thermostat was replaced on two occasions within days of the problems being reported; and that the Landlord provided them with three space heaters as soon as he was advised that they were without heat. She stated that the furnace was replaced on January 19, 2013 but it did not work until January 22, 2103.

The Landlord stated that he was advised that the furnace was working sporadically until early November; that he initially understood there was a problem with the thermostat; that within four days of learning that the furnace stopped working he learned that the furnace needed to be replaced; that a new furnace was installed on December 17, 2012; that in early January the Tenant informed him the furnace was still not working; that it was subsequently determined there was a problem with the wiring to the thermostat; and that the furnace was fully functional in early January.

The Landlord and the Tenant agree that on October 10, 2012 the Tenant informed the Landlord that the dishwasher was leaking. The Landlord stated that he replaced the seal on the dishwasher in October and that the Tenant informed him the repair did not resolve the problem. The Tenant with the initials "T.D." stated that they use the dish washer every day; that it leaked a few times each week; and that they needed to place a towel beneath the dishwasher to absorb the leaking water. The Landlord stated that he believes that only a small amount of water leaked after his initial repair.

The Landlord and the Tenant agree that a few days prior to the hearing the Landlord provided the Tenant with a portable dishwasher; that the dishwasher is old; and that it is stored in the dining room and needs to be moved into the kitchen when the Tenant wants to use it.

The Landlord and the Tenant agree that shortly after the start of the tenancy the Landlord provided the Tenant with a replacement washing machine, which he left at the

front of the rental unit without installing it; that shortly after receiving the washing machine the Tenant informed the Landlord the machine only worked on the "hot" cycle and that it took an excessive amount of time to rinse/spin; that the Landlord did not repair or replace the washing machine; that approximately one week prior to the hearing the Tenant informed the Landlord that the washing machine no longer works; that Landlord has been unable to repair the washing machine; and that the Landlord has offered to pay the Tenant for the cost of washing clothes off-site, although no request for payment has yet been made.

The Tenant with the initials "T.D." stated that there are two adults and three young children living in the rental unit; that they do laundry on a daily basis; and that they would not have rented this rental unit if it was not equipped with a washing machine. She stated that in the two weeks prior to the hearing the Tenant spent approximately \$40.00 doing laundry at a commercial laundry.

The Landlord and the Tenant agree that on October 10, 2012 the Landlord was advised that a knob on the stove was missing; that the missing knob prevented the Tenant from setting/determining the temperature of the oven; and that the knob has not been replaced.

The Tenant stated that sometime in December the Landlord was informed that the oven had become so hot that an ovenproof dish that was sitting on the top of the stove broke. The Landlord stated that he cannot recall receiving a report of this problem until he received the Application for Dispute Resolution, although he agreed it is "possible" that the problem was reported in December. He stated that he has not yet responded to this report.

On the Application for Dispute Resolution the Tenant declared that they are owed a percentage for utilities. At the hearing the Tenant with the initials "T.D." stated that the Tenant was only obligated to pay 60% of the gas bill, as the gas meter is shared with another suite; that the other suite is vacant; and that gas is used to for heat and hot water in the rental unit. She argued that the Tenant should not be obligated to pay 60% of the gas bill, dated October 01, 2012 and February 19, 2013, as they were not able to use the gas furnace for a significant time of this billing period.

The Tenant stated that the Landlord has already compensated them in the amount of \$550.00 for the extra utilities used and for the inconvenience of the aforementioned need for repairs. The Landlord stated that he has already compensated them in the amount of \$450.00 for the extra utilities used and for the inconvenience of the aforementioned need for repairs.

Analysis

It is always necessary to balance a tenant's right to the quiet enjoyment of the rental unit with a landlord's right and responsibility to maintain the rental unit.

I find that the Landlord acted reasonably and responsibly when, shortly after learning that the roof was leaking, he made three repairs that temporarily resolved the leak. Although the Tenant contends some water continued to leak down a wall in the rental unit during heavy rains, the Landlord denies that he was advised of this continuing problem, and I cannot, therefore, find that he did not respond appropriately to the need for additional temporary repairs.

I find that the roof was repaired in January of 2013. Regardless of whether it was repaired on January 07, 2013, as the Landlord contends, or January 28, 2013, as the Tenant contends, I find that the final repair was done in a reasonable amount of time, considering that the temporary repairs were adequate. While I accept that the Tenant was inconvenienced by a leak in the roof and the need to dry areas in the home as a result of that leak, I find that the inconvenience was not sufficient to warrant compensation for the loss of the quiet enjoyment of the rental unit.

I find that the Landlord acted reasonably and responsibly when, shortly after learning that the furnace was malfunctioning, he replaced the thermostat and provided the Tenant with space heaters, and he eventually replaced the furnace in the rental unit.

I find that the Tenant has submitted insufficient evidence to show that the furnace was not replaced until January 19, 2013 and that it was not fully functional until January 22, 2013. In reaching this conclusion I was heavily influenced by the absence of independent evidence that corroborates this testimony or that refutes the Landlord's testimony that the furnace was replaced on December 17, 2012; that the problem with the thermostat was reported in early January; and that it was subsequently repaired in the early part of January. I therefore cannot conclude that the Tenant was without the use of the furnace during a significant portion of January of 2013.

In spite of the reasonable efforts made by the Landlord, I find that being without a furnace during cold months is a significant inconvenience and that the Tenant is entitled to some compensation for the resulting loss of the quiet enjoyment of the rental unit. After considering that the inconvenience was reduced by the space heaters that were provided and that the use of space heaters increases the cost of the hydro bill, I find that the Tenant is entitled to compensation of \$300.00 for being without a fully functional furnace for approximately three months.

I find that a dishwasher was provided with the rental unit; that until recently the dishwasher has leaked; and the recently the Landlord has provided the Tenant with a portable dishwasher, which is less convenient than a built-in dishwasher. I find that the Tenant is entitled to compensation of \$100.00 for being without a fully functional built-in dishwasher for a period of five months. I also authorize the Tenant to reduce the monthly rent payment for March of 2013 by \$20.00 if the Landlord has not installed a fully functional built-in dishwasher by March 01, 2013 and to reduce each subsequent monthly rent payment by \$20.00, until such time as the Landlord installs a fully functional built-in dishwasher.

I find that a washing machine was provided with the rental unit; that until recently the washing machine only operated on the "hot" cycle and took an excessive amount of time to rinse/spin; and that the washing machine does not currently work. After considering that the inconvenience of using a washing machine that only operates on a "hot" cycle and the added hydro expense of a washing machine that takes an excessive amount of time to rinse/spin, I find that the Tenant is entitled to compensation of \$150.00 for being without a fully functional washing machine for a period of four months and for the inconvenience of having to install the replacement washing machine. I find that the Tenant is entitled to compensation of an additional \$100.00 for the inconvenience and cost of having to do laundry off-site for the month of February of 2013.

I order the Landlord to provide the Tenant with a fully functional washing machine. I authorize the Tenant to reduce the monthly rent payment for March of 2013 by \$100.00 if the Landlord has not installed a fully functional washing machine by March 01, 2013 and to reduce each subsequent monthly rent payment by \$100.00, until such time as the Landlord installs a fully functional washing machine.

I find that the Tenant has never been able to use the oven in the rental unit properly, as the missing knob made it difficult, if not impossible, to determine the temperature of the oven. I find that the Tenant is entitled to compensation of \$50.00 for being without a fully functional oven for a period of five months. I also authorize the Tenant to reduce the monthly rent payment by \$10.00 for March of 2013 if the Landlord does not replace the missing knob by March 01, 2013 and to reduce each subsequent monthly rent payment by \$10.00, until such time as the Landlord replaces the knob or the stove.

I find that the report of an oven proof dish on the stove breaking as a result of heat emanating from the oven is an indication that the oven is not functioning properly and may be unsafe. I therefore order the Landlord to have the stove inspected by a qualified technician and to either replace the stove with a fully functional stove or to provide the Tenant with documentation from a qualified technician which shows the oven is functioning properly. The Tenant retains the right to file another Application for Dispute Resolution seeking financial compensation if the Landlord has not complied with this order by March 15, 2013.

I find that the Tenant has failed to establish that they are not obligated to pay for 60% of the gas bill for the period between October 01, 2012 and February 19, 2013. As the Tenant agrees they are obligated to pay 60% of the gas used at the rental unit and they would not have used any gas for the furnace while the furnace was not functioning, I can find no reason to conclude why they would not be obligated to pay 60% of the gas bill for this billing period. I therefore dismiss the claim to recover any portion of this gas bill.

I find that I am unable to determine how much compensation has been paid to the Tenant, as the Tenant claims \$550.00 has been paid and the Landlord claims only

\$450.00 was paid. While it is clear that one of the parties is incorrect, I cannot conclude that either party is intentionally attempting to mislead me, as their testimony benefits the other party. In these circumstances I find it appropriate to average the two amounts and conclude that compensation of \$500.00 has already been provided to the Tenant.

Conclusion

I find that the Tenant has established a monetary claim of \$700.00. I find this claim must be reduced by the \$500.00 in compensation that the Tenant has already received.

On the basis of these calculations, I grant the Tenant a monetary Order in the amount of \$200.00. In the event that the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

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 25, 2013

Residential Tenancy Branch

