



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR RP O

Introduction

This hearing dealt with an Application for Dispute Resolution filed on January 28, 2013, by the Tenant to obtain a Monetary Order for the cost of emergency repairs, to make repairs to the unit, site or property, and for other reasons.

The parties appeared at the teleconference hearing, and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the Tenant be awarded monetary compensation for emergency repairs?
2. Should the Landlord be ordered to repair the broken window?
3. Is the Tenant entitled to storage space?

Background and Evidence

The Tenant submitted documentary evidence which included, among other things, copies of: photos of the rental property; a telephone bill; and her written statement.

The following facts were not in dispute and were confirmed during this proceeding:

- (1) The parties entered into a written tenancy agreement that began on February 1, 2010; and
- (2) Rent is payable on the first of each month in the amount of \$700.00; and

- (3) The Tenant paid a security deposit of \$300.00 on or before February 1, 2010; and
- (4) The Landlord provided the Tenant with a copy of her tenancy agreement on Monday February 25, 2012.

The Tenant advised that after living in the basement suite for two years the telephone jack in her kitchen no longer worked. Rather than inform the Landlord of this problem she decided to call the telephone company herself. She had the telephone company attend on New Year's Day, January 1, 2013, and authorized them to conduct the repairs which cost her \$57.50.

The Landlord denies responsibility for the telephone repair and argued that the Tenant should be responsible as the repairs were done inside her suite and without the Landlord's permission or knowledge. She said that the Tenant must have done something to break the jack as they do not break on their own. She stated that she was not informed of this issue prior to receiving the notice of dispute resolution.

The Tenant has applied to have the Landlord ordered to repair the broken front window. The window has been broken since before her tenancy started. The window is located in her living room area and the crack has gotten worse as time goes on. She said she attempted to find out who the owner of the house was to get them to fix the window because her Landlord refuses to have it fixed. She provided pictures in her evidence of the broken window.

The Landlord advised that she rents the entire house and has permission to act as a landlord for the basement suite. She confirmed the basement window was broken by her previous tenant and that it is her responsibility to have it repaired and not the owner. The Landlord said she refuses to have the window repaired because she rented the basement suite to the Tenant "as is". She also stated that the Tenant's safety is not at risk as the Tenant leaves a window open all the time for her cat to come and go, even when the Tenant is not home.

The Tenant has requested that the Landlord be ordered to provide her with storage space. She confirmed that her tenancy agreement does not say storage is included in her rent or that it is provided. She stated she provided pictures of areas outside of her suite where the Landlord has items stored and she wishes to store her property there as well.

The Landlord said she will not provide the Tenant storage. She said that up until last fall she was friends with the Tenant and the Tenant had never said anything to her about storage until December 2012. At that time she said they had a temporary agreement for the Tenant to store a few items in her storage room area. Shortly afterwards she went into her room to work on her table and found that the Tenant had filled the room up to the ceiling. Their relationship broke down at that point and she told the Tenant to remove her stuff from the Landlord's room.

Analysis

The Tenant seeks to recover \$57.50 for emergency repairs she had done on her telephone line. She did not inform the Landlord of the required repairs and authorized the repairs without the Landlord's permission.

Section 33(1) of the Act defines "**emergency repairs**" as being repairs that are (a) urgent, (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and (c) made for the purpose of repairing (i) major leaks in pipes or the roof, (ii) damaged or blocked water or sewer pipes or plumbing fixtures, (iii) the primary heating system, (iv) damaged or defective locks that give access to a rental unit, (v) the electrical systems, or (vi) in prescribed circumstances, a rental unit or residential property.

Section 33(3) of the Act stipulates that a tenant may have emergency repairs made only when all of the following conditions are met: (a) emergency repairs are needed; (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs; (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

Based on the above I find that repairs to a telephone line do not meet the definition of "emergency repairs". Furthermore, I find the Tenant did not follow the Act by informing the Landlord of the required repairs and therefore the Landlord cannot be held responsible for payment of such repairs. Accordingly, I dismiss the Tenant's claim for \$57.50, without leave to reapply.

Section 32 of the Act stipulates that 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.

Section 32 (5) of the Act provides that a landlord's obligations under subsection 32 (1) 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.

Based on the foregoing, I do not accept the Landlord's argument that the Tenant rented the unit "as is" because section 32 (5) stipulates that the Landlord's obligation to repair the unit cannot be avoided even if the Tenant knew about the broken window at the start of the tenancy. Therefore, I hereby order the Landlord to have the broken window repaired no later than **March 31, 2013**. If the Landlord fails to comply with this repair order the Tenant will be at liberty to file another application for monetary compensation.

Both parties confirmed that the tenancy agreement does not include storage space. Therefore, the Landlord is not in breach of the Act, regulation, or tenancy agreement by refusing to provide storage space to the Tenant. Accordingly, I find there to be

insufficient evidence to support the Tenant's demand for storage space and her request is dismissed, without leave to reapply.

The Tenant has been provided a copy of her written tenancy agreement since making her application for dispute resolution. Therefore, no further action is required for that request.

It is evident to me that the party's personal relationship has become acrimonious. During this proceeding I reminded each party that they still have a business relationship, one of landlord and tenant, and that they must ensure they understand their rights and obligations as set out in the *Residential Tenancy Act*.

I have included with my decision a copy of "A Guide for Landlords and Tenants in British Columbia" and I encourage the parties to familiarize themselves with their rights and responsibilities as set forth under the *Act*.

Conclusion

The Landlord is HEREBY ORDERED to have the basement living room window repaired no later than **March 31, 2013**, pursuant to section 32 of the *Act*. If the Landlord fails to comply with this repair order the Tenant will be at liberty to file another application for monetary compensation.

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 28, 2013

Residential Tenancy Branch

