



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, ERP, PSF, RR and FF

Introduction

This hearing was convened on the tenant's application received on March 26, 2013 seeking a monetary award for loss or damage, orders that the landlord comply with the legislation and rental agreement, complete emergency repairs and provide services and facilities. The tenant also seeks a rent reduction and recovery of the filing fee for this proceeding.

As a matter of note, of this hearing was made extremely difficult by the conduct of the landlords making it necessary to mute their line a number of times due to frequent loud and extended interruptions and disparaging comments about the tenant.

The tenant, a senior, was assisted by her adult son, who does not reside in the rental unit, as she had some difficulty in hearing.

Early in the hearing, the tenant advised that she had given notice to end the tenancy to take effect on May 31, 2013. As the end of the tenancy is imminent, some of the requests for orders are rendered moot and some of are less consequence.

As a matter note, on becoming aware of the apparent degree of hostility in the relationship between the landlords and the tenant, the tenant's son attempted to negotiate a mutual agreement to end the tenancy earlier, including an offer to withdraw the present claims. The landlords declined.

Issue(s) to be Decided

Is the tenant entitled to a monetary award for loss of use of facilities and services and, if so, in what amount? Are any of the other remedies sought by the tenant warranted?

Background and Evidence

This tenancy began on February 1, 2013. Rent is \$750 per month and the landlords hold a security deposit of \$375.

During the hearing, the tenant, with assistance from her son, gave evidence that when she first viewed the rental unit in January 2013, it was very dirty, the toilet tank would not fill, the shower handle was broken and there was no caulking around the sink.

The landlord's stated they would clean and do the repairs, including repainting the kitchen which the tenant had requested be changed from the mustard yellow color at the time.

When the tenant returned a few days after the move-in date, the work had not been done, as it remained undone when she returned a few days later.

The tenant stated that her primary grievance was that the toilet tank would not fill and that, except for a temporary makeshift repair, it remained that way for three weeks. In addition, there was no handle on the shower tap which she had to do without for 14 days.

The landlords stated that the toilet was only out for a total of three days, but I note that the tenant elucidated her claim with specific dates on which the problem persisted.

The tenant also stated that the landlords were energy conscious to the extreme, illustrated by photos of a number of multiple-socket light fixtures with a single bulb in each. The tenant's son said he had attempted to respect the landlord's energy saving consciousness by installing some compact fluorescent bulbs.

The tenant said the landlords did not want her to use the dishwasher, limited her laundry use beyond reason and left the thermostat extremely low when they were out which made the tenant's unit uncomfortably cold.

The landlords stated that the kitchen had been painted at a cost of \$250 but had not understood that the tenant wanted to have the colour changed to white. They also stated that they had offered \$100 off the first month's rent and that the tenant had declined their offer to clean the oven because the tenant had stated that, even if the oven appeared clean, it was her practice to clean it herself.

The tenant had claimed that the landlords did not respond to her request for repairs, but the landlords stated that the tenant's requests unreasonably frequent. The landlords said that in the first month, they had offered to try to find new tenants to permit the tenant to leave, but that she had denied entry when they brought prospective tenants and said she had changed her mind.

Analysis

In the face of conflicting evidence from the parties, I have relied heavily on the photographic evidence. Combined with written submissions from the parties, I find the photographs clearly demonstrate that the landlords failed to meet their obligations under section 32 of the *Act* which requires that:

- 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.

As to the period during which the toilet and shower were not functional, I find the evidence of the tenant to be more credible, and I find that the failure to make those repairs properly and immediately constituted a failure to provide essential facilities, a breach of section 27(1) of the *Act*.

Therefore, I find that the tenant's claim for rent abatement for \$375 is fair and reasonable and that she is entitled to the requested award in that amount.

I further find that the tenant is entitled to recover the \$50 filing fee for this proceeding from the landlord. Therefore, I am granted the tenant a Monetary Order for \$425 comprised of the \$375 rent abatement and filing fee.

As the relationship between the parties has become so unpleasant, I would hope there remains a chance that the parties will be able to find new tenants and mutually agree to end the tenancy early.

Conclusion

The tenant's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$425 for service on the landlords.

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: April 26, 2013

Residential Tenancy Branch