



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Berkley Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OC RP RR

Introduction

This was an application by the tenant to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, to make repairs to the unit, and for the landlord to comply with the Act. The parties received one another's evidence.

Both parties participated in the conference call hearing with their submissions, document evidence and testimony during the hearing. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Issue(s) to be Decided

Is the tenant entitled to a reduction of rent for a service or facility agreed upon but not provided?

Should the landlord be Ordered to comply with the Act?

Background and Evidence

The undisputed relevant testimony in this matter is that the tenancy started in 2000. The monthly payable rent is \$855.00 which reflects a recent reduction of \$35.00 per month. There is a written tenancy agreement for this tenancy. The parties agree that the rent includes "cable" and that television cable service has always been provided, until lately. The landlord recently terminated the cable service to the residential property and each tenant was given a proportion as a rent reduction of \$35.00 and each tenant is now responsible to obtain their own cable service of their choosing. The parties agree the cable service provided until lately included an offering of channels in addition to the current offering of channels by a cable service provider for a basic tier of service. The tenant claims that the cost for equivalent service as was recently terminated now costs \$67.95 per month and the landlord should reduce the monthly rent by this amount as opposed to only \$35.00. The landlord claims that tenants have always been provided with a television cable service as offered by the *cable service provider*, which over time

has changed and evolved with service levels, different technology, and the provider's business agenda. The landlord purchased a bulk package and provided it as part of the rent.

The tenant argues that they are owed the cost equivalent for a cable package labelled **Tier 3** at a cost of \$67.95 per month, as a reduction of rent. The landlord argues that while they accept the tenancy has previously enjoyed more television channels in the rent, it has always been a basic cable package supplied to the residential property in bulk and in turn, without additional charge, to the tenant. The bulk package may have had some value added features. However, now the landlord is instead giving tenants the equivalent of what they were paying for cable service in bulk as a reduction in the tenant's rent.

The tenant also sought for the landlord to clean the outside windows of the rental unit as they are not accessible to the tenant, and are dirty. The landlord testified that they are in the process of attending to outside window cleaning, and will provide this service annually thereafter, in satisfaction of Residential Tenancy Policy Guidelines #1 for outside window cleaning by the landlord.

Analysis

Section 27 of the Act, states;

Terminating or restricting services or facilities

27 (1) A landlord must not terminate or restrict a service or facility if

- (a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or
- (b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

- (a) gives 30 days' written notice, in the approved form, of the termination or restriction, and
- (b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

I find that sub-section (1) of this Section does not apply in this dispute. I find the cable service is not essential to the tenant's use of the rental unit, nor that provision of a television cable signal is a *material term* of the tenancy agreement. In this case, I find that the tenancy agreement did not bind the parties to a particular quantum of cable service or a specific level of cable service features. I find it is doubtful that alternate service levels existed when the tenancy agreement was made or contemplated between

the parties. I prefer the landlord's argument that a basic level of cable service was included in the tenancy agreement, and that the cost of basic cable is the *value* for this service within the tenancy agreement. I find it is still available to the tenant to have a television cable signal with the \$35.00 monthly rent reduction to replace that which the landlord provided, albeit a different version.

I find that sub-section (2) of this Section states that if the landlord terminates a service they must do so in accordance with this section, and I find the landlord has done that – providing the tenant with a reduction of rent equivalent to the value of the service agreed within the tenancy agreement. As a result of the above, **I dismiss** the tenant's application for a further reduction in the rent, without leave to reapply. If the cost of basic cable service should rise, *it may* be appropriate for the tenant to seek an additional downward adjustment in the rent.

In respect to the outside window cleaning, I find the landlord's plan to clean the outside of the windows complies with Residential Tenancy Policy Guideline #1 respecting same. As a result, I find that at this time, it is not necessary to Order the landlord to comply with Section 32 of the Act to repair and maintain the residential property. If the forgoing does not occur, the tenant is at liberty to re-apply for dispute resolution.

Conclusion

The tenant's claim **is dismissed**, without leave to reapply.

This Decision is final and binding on both parties.

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: March 28, 2013

Residential Tenancy Branch