



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, RP

Introduction

This hearing concerns an application by the tenant for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and an order instructing the landlord to make repairs to the unit, site or property.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

This tenancy began in November 2000, at which time a security deposit of \$450.00 was collected. Monthly rent is due and payable in advance on the first day of each month. Presently, monthly rent is \$2,112.00.

A number of decisions have previously been issued in the ongoing dispute between these parties. Files that have been opened are as follows:

734374; 740866; 754936; 765303; 778829; 781051; 785633; 789447;
793936 and 803640.

While there are some new issues in dispute, the present dispute mainly arises out of the decision dated July 26, 2012 (file # 793936). In that particular decision the Arbitrator ordered the landlord to “complete all required repairs and work by the dates specified....” In her current application the tenant claims that the landlord has not undertaken to fully comply with the order.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

At the outset, the attention of the parties is drawn to the following particular sections of the Act and the Guidelines, and the parties are encouraged to familiarize themselves with the respective provisions set out therein:

Section 28: **Protection of tenant's right to quiet enjoyment**

Residential Tenancy Policy Guideline #6: **"Right to Quiet Enjoyment"**

Section 29: **Landlord's right to enter rental unit restricted**

Residential Tenancy Policy Guideline #7: **"Locks and Access"**

Section 32: **Landlord and tenant obligations to repair and maintain**

Residential Tenancy Policy Guideline #1: **"Landlord & Tenant – Responsibility for Residential Premises"**

Based on the documentary evidence and testimony of the parties, the various aspects of the tenant's application and my findings around each are set out below.

ISSUES BROUGHT FORWARD:

- 1) *Repair to broken front window*: previously ordered to be completed by October 31, 2012.

NEW ORDER: to be completed by no later than **midnight, June 15, 2013.**

Compensation: \$216.00

This entitlement (reduction in the value of the tenancy) is calculated on the basis of \$1.00 per day for the period from November 1, 2012 (the day after the previous deadline) to June 4, 2012 (the date of the present decision).

- 2) *Repairs to rotten / broken boards on ground level wood patio*: previously ordered to be completed by October 31, 2012.

NEW ORDER: to be completed by no later than **midnight, June 30, 2013.**

Compensation: \$216.00

This entitlement (reduction in the value of the tenancy) is calculated on the basis of \$1.00 per day for the period from November 1, 2012 (the day after the previous deadline) to June 4, 2013 (the date of the present decision).

- 3) *Repairs to tub in lower unit:* chip previously ordered to be repaired by October 31, 2012.

NEW ORDER: to be completed by no later than **midnight, June 30, 2013.**

Compensation: \$216.00

This entitlement (reduction in the value of the tenancy) is calculated on the basis of \$1.00 per day for the period from November 1, 2012 (the day after the previous deadline) to June 4, 2013 (the date of the present decision).

- 4) *Inspection by professional of hardwood floors in lower unit:* inspection previously ordered to be completed by April 30, 2013. If refinishing required, work previously ordered to be completed by August 31, 2013.

NEW ORDER: hardwood in living room only to be refinished by no later than **midnight, August 31, 2013.**

Compensation: Not applicable.

- 5) *Use of moss killer in front yard & on front sidewalk:* previously ordered to be completed by August 31, 2012.

Withdrawn.

Compensation: Not applicable.

- 6) *Bamboo growth in back yard:* previously agreed that landlord will mow the area in question. No order previously issued.

NEW ORDER: to be remedied / removed by no later than **midnight, June 30, 2013.**

Compensation: Not applicable.

- 7) *Re-stain or reface kitchen cabinets*: previously ordered to be completed by April 30, 2013.

These cabinets have been repainted. Accordingly, this aspect of the application is hereby dismissed.

Compensation: Not applicable.

- 8) *Main floor painting*: previously ordered to be completed by October 31, 2012.

Withdrawn.

Compensation: Not applicable.

- 9) *Repairs to holes in various ceilings*: ordered to be completed after painting, which was ordered to be completed by October 31, 2012.

Withdrawn.

Compensation: Not applicable.

- 10) *Gate on rebuilt deck*: The tenant testified that the gate previously in place was discarded when the deck was rebuilt. Further, she testified that replacement of the gate would assist her in the management of her dog. No order was previously issued in regard to this matter.

NEW ORDER: gate to be replaced by no later than **midnight, July 31, 2013** (as there was previously a gate in place).

Compensation: Not applicable.

NEW ISSUES:

- i) *Peeling vinyl at seam on new upstairs patio*:

NEW ORDER: to be repaired by no later than **midnight, July 31, 2013**.

- ii) *Damaged / leaking gutters on north-facing front of house*:

NEW ORDER: to be repaired / replaced as required, by no later than **midnight, July 31, 2013**.

- iii) *Miscellaneous clutter, garbage, building refuse etc. stored adjacent to garage:*

I find on a balance of probabilities that the subject clutter, garbage, building refuse etc. was not deposited by and does not belong to the tenant.

NEW ORDER: clutter, garbage, building refuse etc. to be removed by the landlord by no later than **midnight, July 31, 2013.**

- iv) *Painting outside walls of garage:*

It is understood that one of the walls of the garage faces onto the lane, and that the status of its paint is not at issue. It is further understood that only 1 of the 3 remaining walls facing into the unit's yard has been painted.

NEW ORDER: 2 unpainted walls facing into the backyard to be painted by no later than **midnight, August 31, 2013.** If the colour of the paint does not match the other already painted wall, then all 3 walls are to be freshly painted the same colour by this same date.

- v) *Painting all rooms in the lower level of the unit:*

The tenant testified that the lower level of the unit has not been painted at any time subsequent to the time when tenancy began in 2000.

NEW ORDER: to repaint the entire lower level of the unit by no later than **midnight, August 31, 2013.**

Section 63 of the Act speaks to the **Opportunity to settle dispute.** Pursuant to this provision the parties agreed as follows:

FRONT DOOR: this has been repainted but the tenant has expressed concern about the quality of the surface. The landlord agreed to assess the finish on the door and exercise discretion accordingly.

PATCH WORK ON KITCHEN CEILING: the tenant considers the repair undertaken to be unsightly and a source of embarrassment. The landlord agreed to assess the quality of repair and exercise discretion accordingly.

BEES' NEST AT FRONT DOOR TO UNIT: the landlord agreed to undertake in a timely fashion to remove this nest.

PAINTING IN LOWER LEVEL OF UNIT: the parties agreed to consider whether a mutually agreeable arrangement may be reached, pursuant to which the

landlord would provide the materials, the tenant's son would complete the painting, and the tenant's son would be remunerated by the landlord for completing the painting.

As for compensation, I find that the tenant has established entitlement in the total amount of **\$898.00** as follows:

\$648.00: (\$216.00 + \$216.00 + \$216.00) as set out above

\$250.00: breach of the right to quiet enjoyment arising from the landlord's failure to comply with previous orders, the landlord's attendance / entry to the unit without proper notice, and an ensuing requirement that the tenant file yet another application for dispute resolution.

Conclusion

The landlord is hereby **ORDERED** to comply with all **ORDERS** as set out above.

I hereby **ORDER** that the tenant may withhold **\$898.00** (\$648.00 + \$250.00) from the next regular payment of monthly rent.

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: June 4, 2013

Residential Tenancy Branch