



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, ERP, RP, OLC, and FF

Introduction

This hearing was convened in response to the Tenant's Application for Dispute Resolution, in which the Tenant has made application for a monetary Order for money owed or compensation for damage or loss; for an Order requiring the Landlord to make repairs to the rental unit; for an Order requiring the Landlord to make emergency repairs to the rental unit; for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* or the tenancy agreement; and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at both hearings.

At the hearing on April 25, 2013 the Tenant stated that the Application for Dispute Resolution and Notice of Hearing were served to the Landlord, via registered mail, on April 12, 2013. Legal Counsel for the Landlord acknowledged receipt of these documents.

At the hearing on April 25, 2013 the Tenant stated that documents the Tenant wishes to rely upon as evidence were served to the Landlord, via registered mail, on April 18, 2013. Legal Counsel for the Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

At the hearing on April 25, 2013 Legal Counsel for the Landlord stated that he has represented the Landlord in other residential tenancy matters, including an Application for Dispute Resolution that was filed by the Landlord and was scheduled to be heard on this date, although it has been subsequently cancelled by the Landlord. He stated that he was only retained to represent the Landlord on this particular matter on April 24, 2013. He requested that the proceedings be adjourned to provide him with an opportunity to prepare a response to the Tenant's claims.

The Tenant opposed the request for an adjournment on the basis that this has been an on-going dispute that has had a significant impact on their tenancy and they wish to have the matter resolved as quickly as possible.

The Tenant submitted a copy of a decision from a dispute resolution hearing that was concluded on March 04, 2013. Many of the issues in dispute in those proceedings appear to be related to issues in dispute at these proceedings. In particular, I note that an application for an Order requiring the Landlord to make emergency repairs was considered, and granted, at the hearing on March 04, 2013. At the hearing on April 25, 2013 the male Tenant acknowledged that there is no need for additional emergency repairs, other than those considered at the hearing on March 04, 2013. Given that there are no new emergency repairs to be considered at these proceedings; that the Tenant is seeking a substantial amount of compensation; that the Tenant's Application for Dispute Resolution was only filed 14 days ago; that the Tenant did not mail the bulk of his evidence to the Landlord until 6 days ago; and that the matter can be reconvened in approximately six weeks, I find it reasonable to adjourn this matter. I find that the need to provide the Landlord with a fair and reasonable opportunity to respond to the Tenant's claims outweighs the inconvenience a delay will cause to the Tenant.

Issue(s) to be Decided

Is the Tenant entitled to compensation for loss of the quiet enjoyment of the rental unit; is there a need to order the Landlord to make repairs to the rental unit; and is there a need for an order requiring the Landlord to comply with the terms of the tenancy agreement or the *Residential Tenancy Act (Act)*?

Background and Evidence

On May 29, 2013 the Tenant faxed a letter to the Residential Tenancy Branch in which he applied to withdraw his Application for Dispute Resolution for a variety of reasons, including time to seek legal advice on whether he should be pursuing this matter in the Supreme Court of British Columbia.

The Tenant stated that he did not serve a copy of the aforementioned letter to the Landlord so it was read to legal counsel at the hearing on June 04, 2013. Legal counsel did not oppose the request the application to withdraw the Application for Dispute Resolution.

Analysis

As the Landlord did not oppose the application to withdraw the Application for Dispute Resolution and I find it is reasonable for the Tenant be provided with the opportunity to seek legal counsel, I grant the Tenant's application to withdraw the Application for Dispute Resolution.

Conclusion

I find that the Tenant has withdrawn the Application for Dispute Resolution. As I have made no findings on the merit of the Tenant's Application for Dispute Resolution, I find

that the Tenant has the right to file another Application for Dispute Resolution in regards to this dispute. This finding does not prevent a different Arbitrator from determining whether the principle of res judicata applies to any of the issues raised by the Tenant in this Application for Dispute Resolution.

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 04, 2013

Residential Tenancy Branch

