



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP, RR

Introduction

This hearing dealt with an application by the tenant for orders compelling the landlord to comply with the act, regulation or tenancy agreement; to make required repairs to the rental unit; allowing the tenant to reduce the rent for repairs, services or facilities agreed upon but not provided; and awarding the tenant compensation for damage or loss under the Act, regulation or tenancy agreement. Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail the landlord did not appear.

Issue(s) to be Decided

Is the tenant entitled to any of the orders requested and, if so, on what terms?

Background and Evidence

The parties have signed a one year fixed term tenancy agreement for October 1, 2012 to September 30, 2013. The monthly rent of \$950.00 is due on the first day of the month. The tenant actually moved into the rental unit on September 22, 2012 and paid pro-rated rate for the period September 22 to September 30.

The tenant paid a security deposit of \$475.00 at the commencement of the tenancy. He also paid the last month's rent. When he subsequently learned that the collection of the last month's rent as a form of security deposit is illegal in British Columbia he applied that money to the May rent.

The rental unit is a one bedroom, 484 square foot apartment on the 19th floor of a 22 story building.

When the tenant moved into the rental unit he advised the landlord of the following deficiencies;

- The refrigerator was not working.
- The end piece on the kitchen faucet had been broken off and was in the cupboard. The landlord took the broken piece with her, presumably to obtain a replacement.

- The stopper for the sink/garburator was missing.
- A piece was broken off the bathtub faucet and was in the bathroom. The landlord also took that piece with her.
- One third of the light bulbs were not working.
- There was some minor damage to the drywall in the living room.

The refrigerator was not replaced until October 4, two weeks after the start of the tenancy. The tenant lost all of his food while waiting for the replacement to arrive. The replacement refrigerator is about half the size of the original refrigerator and does not have the same features as the refrigerator that was in the unit when the tenant agreed to rent it.

None of the other deficiencies have been repaired. The kitchen faucet sprays water everywhere so the tenant must be very careful when he uses it and the fact that the sink has no stopper makes it very inconvenient to use. The bathtub faucet is set on the shower option and cannot be switched to the tub option.

At the beginning of October the tenant notified the landlord that the buzzer entry system was not working. It has never been repaired. Whenever someone comes to visit the tenant, which is everyday, or to make a delivery, the tenant cannot buzz the person into the building. He must take the elevator to the lobby and manually open the door for his guest.

On January 9, 2013 the tenant notified that landlord that the dishwasher was not working. The problem is that it will not drain. As of the date of the hearing, it was still inoperable.

After the landlord received this application for dispute resolution she has made four appointments to meet with the tenant but has cancelled every appointment.

Analysis

Section 32(1)(a) of the *Residential Tenancy Act* requires a landlord to provide and maintain residential property in a state of decoration and repair that:

- complies with the health, safety and housing standards required by law; and,
- having regard to the age, character and location of the rental unit makes it suitable for occupation by a tenant.

In addition, the tenancy agreement specifies that certain appliances and services are included with the payment of rent.

The Act allows an arbitrator to order repairs and to order “that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of the tenancy agreement”.

I order that the landlord make the following repairs:

- Repair or replace the dishwasher.
- Repair or replace the kitchen faucet.
- Replace the kitchen drain stopper.
- Repair or replace the bathtub faucet.
- Ensure that the buzzer entry system is operational.

This is a small rental unit. Having regard to the fact that the sink and bath tub faucets are not fully functional; the dishwasher and entry system do not work; there was no refrigerator for two weeks; and the replacement refrigerator is not of the same size or quality as the one shown to the tenant when he agreed to rent the unit; I find that the value of the tenancy agreement has been reduced by 25% since the day the tenant moved in, September 22, 2012, and the monthly rent to the landlord is reduced by \$237.50 to \$712.50.

I find that the tenant is entitled to a lump sum payment of \$2021.25 for the overpayment of rent from September 22, 2012 to June 30, 2013, calculated as follows:

- Sept 22/12 to Sept 30/12– (\$237.50 divided by 30 days) x 9 days = \$71.25, plus
- Oct 1/12 to June 30/13 - \$237.50 x 8 months = \$1950.00.

The rent reduction remains in effect until the landlord has completed the repairs as ordered. If there is any dispute between the parties as to whether or not the repairs have been properly made either party may apply to the Residential Tenancy Branch for further orders.

The tenant asked for an order ending the tenancy because the landlord had breached a material term of the tenancy agreement and had not corrected the situation within a reasonable time after the tenant had given written notice of the failure. Although the landlord has breached the terms of the tenancy agreement by not making certain repairs as required I do not find that any of these failures are a breach of a material term.

The tenant had also asked for compensation for his moving costs. As the tenancy is not ending, no award for moving costs will be made.

The tenant had also asked for compensation for the costs of two Land Registry searches. The Act does not permit compensation to be granted to any party for the costs of preparing or obtaining evidence for a hearing or for attending a hearing.

Conclusion

- a. A Repair Order has been made.
- b. An order reducing the rent until the repairs have been completed has been made.
- c. A monetary order in favour of the tenant in the amount of \$2012.25 has been made. Pursuant to section 72(2) this amount may be deducted from rent as it becomes due to the landlord. This deduction will commence July 1, 2013 and continue until paid in full. The parties are reminded that until the repairs are completed the rent due is \$712.50 and that is the amount credited each month to the amount by the landlord to the tenant.

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 27, 2013

Residential Tenancy Branch