



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was a hearing with respect to the tenant's application for a monetary award. The hearing was conducted by conference call. The tenant attended with her interpreter. The landlords were represented by legal counsel and by their son, who acted as their agent.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental unit is the upper floor of a house in Vancouver. The tenant also has the use of a detached garage on the rental property. The tenancy began in 2002. I was advised by the tenant that there is not a written tenancy agreement. The tenant testified that there was a leak in the roof of the garage and the landlord was notified of the leak on March 26, 2013. The tenant claimed that the tenant's property, stored in the garage was irreparably damaged by water from the leak, The tenant claimed the sum of \$5,000.00 for the following items:

<u>ITEMS INVOLVED</u>	<u>VALUE</u>
1. Drill Press (Industrial)	\$1,000.-
2. Table Saw (Industrial)	\$900.-
3. Miele Front Load Washer (made in Germany)	\$2,100.-
4. Drill Press Vice (Industrial – made in England)	\$200.-
5. Welding, Transformer, iron/wood work tables and tools, metal tools	\$800.-
	<u>\$5,000.-</u>

The tenant did not supply any invoices with respect to the purchase of the items and there were no photographs of the items listed. When asked about the nature of the damage to the items, she said that they were rusted and unusable. She said the items had been stored in the garage for the entire 11 year period of the tenancy. She said that she obtained the values for the items from the internet.

The tenant made a claim for the items under her tenant's insurance policy, but the claim was rejected. The tenant alleged that her property was damaged due to the neglect of the landlord, who did not attend to the upkeep of the rental property. She said the roof on the house was replaced in January 2013 because it was worn out and the garage roof should have been changed at the same time. The tenant said there were several other instances during the tenancy when the landlords neglected their responsibility to repair and maintain the rental property.

She said the landlords were aware of the nature of the goods that the tenant stored in the garage and that the landlords should have to compensate the tenant for her loss as claimed.

The landlords' agent testified that he is principally responsible for dealing with the tenant and addressing necessary repairs to the rental property. The landlord submitted a roofing invoice with respect to the installation of a new roof on the rental house and the garage in 1995. The roofing materials carried a 20 year warranty and according to the landlord should not be due for replacement until 2015. The tenant notified the landlord of a roof leak in the house in January, 2013 and the landlord immediately had the roof replaced. The tenant did not mention any problem with the garage roof in January. After the landlord was notified of the leaking garage roof he had his handyman purchase and install tarps over the garage roof. This was completed by April 17th.

Analysis

The tenant has claimed payment for goods said to have been damaged by water from a leaking roof in the garage on the rental property. The tenant's claim is based upon the assertion that the tenant's loss was caused by lack of care, negligence and breach of a duty owed to the tenant on the part of the landlord. The tenant bears the burden of proving all the elements of her claim, on a balance of probabilities. I find that the tenant has failed to establish that the roof leak resulted from some act of negligence or omission on the part of the landlord. The landlord's evidence shows that the landlord made repairs when required and after notification of a problem. The tenant stored goods in the garage for some 11 years. The evidence does not show that there was a sudden leak that caused damage. The tenant did not say that she made any regular

inspections of the stored items during that time and there was no evidence to show how they were stored, but I note that they were left in an unheated garage for many years. Apart from a handwritten list, the tenant has not provided evidence to establish the nature of the goods or their value. The goods obviously were not new but the tenant appears to have obtained recent prices of new items from the internet. The tenant has not provided evidence to establish that the goods were irreparably damaged. I find that the tenant has not provided sufficient evidence to quantify the loss that she has claimed.

Conclusion

The landlord does not become liable for damage to the tenant's property merely because it was stored on the rental property. The tenant has not proved that her goods were damaged due to the landlord's negligence and she has not provided sufficient evidence to establish the actual damage or the value of the goods claimed to be lost.

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

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: September 17, 2013

Residential Tenancy Branch

