



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, MNSD, FF

Introduction

The tenant applies for damages resulting from a one month Notice to End Tenancy dated and served July 9, 2013. The Notice alleges that the rental unit must be vacated to comply with a government order. The tenant also seeks recovery of a \$357.50 security deposit.

Issue(s) to be Decided

Does the relevant evidence presented at hearing show, on a balance of probabilities, that the tenant is entitled to any of the relief requested.

Background and Evidence

The rental unit is a two bedroom basement suite in a house. The landlords live in the upstairs suite. They rent the entire house from another, possibly the owner. The tenancy started June 1, 2013 at a monthly rent of \$750.00, which was reduced to \$715.00 because the tenant had her own washer and dryer.

The tenant says that her stove never worked properly. The landlords say it worked just fine but that it was slower than other stoves because it was a 110 volt stove instead of the normal 220 volt variety. They say that a previous tenant used it without complaint for over a year and that the person who now has it is using it without complaint.

In the early part of July a bylaw enforcement officer for the City of Abbotsford attended the premises, likely as the result of a complaint, possibly from the tenant's partner. The bylaw enforcement office indicated that the suite was "illegal" and that the landlords must remove the stove. The landlords issued and served the one month Notice on July 9th though it does not appear that the City "ordered" it to be vacated. The landlords removed the stove on July 10 and did not replace it.

The tenant and her partner are raising three children. They cannot reasonably reside in a rental unit without a stove. Though the Notice gave an effective date for the tenancy to end on August 31, the tenant moved at the end of July.

The landlords allege that the tenant was guilty of bad conduct like preparing for a “midnight move,” objecting to the landlords entering the backyard, forging a rent receipt, deceiving the cable company and a satellite dish company. None of the issues possibly raised by those allegations are relevant to the claim before me on this application.

The tenant has not yet provided a forwarding address in writing to the landlords. This application was made July 17, at a time the tenant was still residing at the premises. The address she gave in her application was the dispute address and so, in the circumstances of this case, cannot be taken as the tenant’s forwarding address after they moved out.

Analysis

The tenant’s claim for return of the security deposit is premature. She must provide the landlords with a forwarding address in writing before they are obliged to repay the deposit (s.38 of the *Residential Tenancy Act*). She is free to re-apply after giving the forwarding address, in the event the landlords do not comply with s. 38 by either repaying the deposit to her or making their own application for dispute resolution.

I am satisfied the landlords breached the covenant for quiet enjoyment found in s. 28 of the *Act* by renting to the tenant an illegal suite that was “decommissioned” by the local authority. I make no determination about whether the landlords knew the suite was contrary to local bylaws or not. By renting it to the tenant they warranted that it was.

I find that the tenant has been forced from the suite as a result of the landlords’ breach and as a result of the removal of the stove. I find that without the stove the premises were not reasonably habitable; they were not suitable for occupation by the tenant.

The damages suffered by the tenant as a result are vague. In her application she claimed specific amounts for movers, utility hookups and the like, but at hearing she did not advance those claims, seeking only general damages as I might assess.

Though that assessment might be difficult on the limited evidence before me, I am bound to make the most reasonable assessment I can. The moving of a family from one home to another is a trying event. Having regard to the fact that the tenant and her

family had only just moved in at the start of June, another move so soon would have been very disruptive for the tenant. In assessing damages I make no provision for the fact that the tenant and her family moved to Ontario. That was her choice and though such a move would be more exhausting than a local move, the landlords should not suffer larger damages as a result. In the circumstances I consider \$850.00 to be reasonable compensation for the trouble and inconvenience the tenant was put to as a result of the landlords' breach.

In addition to the general damages suffered as a result of the forced move, though I am not persuaded the stove was below standard, that stove was removed and the tenant was without any stove for the last 20 days she and her family were living in the rental unit. She is entitled to damages for that breach of the tenancy agreement as well and considering that there were a total of five people living and eating in the rental unit, I consider \$150.00 to be an adequate award for the tenant's trouble and inconvenience.

Conclusion

The tenant is entitled to a monetary award of \$1000.00 plus the \$50.00 filing fee. There will be a monetary order against the landlords jointly and severally in the amount of \$1050.00

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 04, 2013

Residential Tenancy Branch

