



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Clifton Hotel
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, OLC, ERP, RP, O

Introduction

This is an application filed by the Tenant for a monetary order for the cost of emergency repairs, for money owed or compensation for damage or loss, for an order for the Landlord to comply with the Act, regulations or tenancy agreement, for an order to make emergency repairs for health or safety reasons and an order for repairs to the unit, site or property.

Both parties attended the hearing by conference call and gave testimony. The Landlord has confirmed receipt of the Tenant's notice of hearing package and the Tenant's submitted documentary evidence. The Landlord has not submitted any documentary evidence.

During the hearing the Landlord stated that he had a Worksafe BC order preventing him from conducting any repairs/maintenance to the rental property. The Tenant's Advocated objected to the late submission of this document. I find that this document, if accurate, would explain the Landlord's actions and as such, during the hearing at 11:15am, the Landlord was instructed to submit this document within 30 minutes to the Residential Tenancy Branch for consideration as a part of this hearing. It was clarified with both parties that the Landlord was responsible for submitting this document fax and if it was not received within the allowed timeframe then it would not form part of this decision. At 11:39am the Landlord submitted via fax a copy of an email from Worksafe BC dated July 31, 2013. The email refers to an attached inspection report that details employee exposure to asbestos "ripping out old electrical from the rooms in Clifton Hotel without first conducting bulk sampling for asbestos." The letter also warns that "Hazard Identification & Assessment" for asbestos must be undertaken before ripping any building structure.

At the beginning of the hearing, the Tenant clarified that there were no costs for emergency repairs and that this selection on the application was made in error. As

such, the Tenant has withdrawn this portion of the application. No further action is required for this portion of the application.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Is the Tenant entitled to an order to comply with the Act, regulations or tenancy agreement?

Is the Tenant entitled to an order for the Landlord to make emergency repairs for health or safety reasons?

Is the Tenant entitled to an order to make repairs?

Background and Evidence

Both parties confirmed in their direct testimony that this Tenancy began on June 28, 2010 and that there is no signed tenancy agreement. The monthly rent is currently \$425.00 and that a \$240.00 security deposit was paid.

The Tenant seeks a monetary claim for \$3,600.00. This consists of \$2,600.00 for the loss of quiet enjoyment because of continuous bed bug infestations for the last 26 months at \$100.00 per month. The Tenant also states that there is a continued pest control problem and general maintenance that the Landlord refuses to address other than to provide the Tenants with a can of "Raid" spray which is inappropriate for the situation. The Tenant also seeks \$1,000.00 for compensation for the Landlord in failing to make repairs/maintenance of window pane replacement, door and door frame repairs, pest control treatments, providing a vacuum for carpet cleaning in the rental units, ceiling repairs due to flooding and regular daily washing cleaning and daily garbage removal from public areas. The Landlord disputes these claims stating that he was unaware of these issues before the Tenant filed this claim. The Tenant disputes this referring to a letter dated August 23, 2013 which was received by the Landlord's agent and again in a letter dated September 9, 2013 asking the Landlord to resolve the listed 7 items on both letters. The Landlord has confirmed in his direct testimony receipt of the August 23, 2013 letter. The Landlord states that he is in frequent contact with City By-law officials over the state of the rental property and that all is well with no complaints from the city. The Tenant disputes this stating that the rental property is being monitored by official and that the Landlord is not complying. The Landlord states that providing a vacuum for the Tenant's use is a courtesy and is not a requirement of

the tenancy. The Landlord states that no repairs/maintenance can be made because of a Worksafe BC order.

The Tenant states that repeated requests during his 26 month tenancy for repairs/maintenance and clearing have been ignored by the Landlord. The Landlord disputes these claims. The Tenant state that there have been ongoing bedbug problems during the 26 month tenancy after it was reported to the Landlord in July of 2010. The Tenant states that no action was taken by the Landlord for any pest control. The Landlord disputes this stating that he has a regular pest control company onsite dealing with the problems. The Tenant disputes this stating that the Landlord has not engaged a pest control company, but instead periodically supplies a can of "raid" to deal with the problem. The Tenant's Advocate states that this Landlord has been repeated cited for Vancouver City By-law infractions for repairs and maintenance and has submitted copies of newspaper stories from the Vancouver Courier and The Globe and Mail in support.

Analysis

I find in reviewing the "email" letter submitted by the Landlord that the Worksafe BC order is referring to "ripping any building structure" that would expose workers to any potential asbestos exposure. The Tenant has established a claim for an order for repairs/maintenance. I find that the Landlord has failed to provide sufficient evidence to satisfy me how this letter would apply to the replacement of window panes in a window, the repair of a door and door frame. On this basis, I order that the Landlord immediately comply with this order to replace any broken or missing window panes in the rental unit. I also order the repair of the rental unit door and door frame as long as it does not require the exposure to materials related to the Worksafe BC order. I find that the Tenant's request for ceiling repairs would be in conflict with the Worksafe BC order and that this portion of the Tenant's request is suspended pending the Landlord complying with the Worksafe BC order to make proper repairs as this would involve the exposure of the drywall and interior wall/ceiling spaces. I find that the Tenant has failed to provide sufficient evidence to satisfy me of any entitlement from the Landlord in providing a vacuum for the Tenant's use as it was not disputed that the vacuum was provided on a courtesy basis. This portion of the Tenant's claim is dismissed. The Landlord is ordered to provide regular daily washroom cleaning and daily garbage removal and to hire a professional pest control technician to assess and perform any necessary treatments. The Landlord is to provide detailed documentary proof of pest control assessments/treatments to the Tenants and of daily logs of who, when and where cleaning has occurred. This is to be posted in a public space for all tenants to view.

I find on a balance of probabilities that the Tenant has established a claim for compensation for \$2,600.00 for the loss of quiet enjoyment due to the continued infestation of bedbugs and a general lack of maintenance over a 26 month period. I find that it is reasonable that the Tenants claim of \$100.00 is equal to 25% of the monthly rent for the 26 month period. The Landlord has failed to provide any evidence of continued pest control maintenance, daily cleaning and maintenance. As for the Tenant's claim for \$1,000.00 for the refusal to effect repairs, I find that the Tenant has failed to provide sufficient evidence that compensation of \$1,000.00 is warranted for the Landlord's refusal to effect repairs. This portion of the Tenant's claim is dismissed.

Conclusion

The Tenant is granted a monetary order for \$2,600.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court. The Tenant is granted an order for the Landlord to comply by:

- 1) Replace missing or broken window panes.
- 2) Repair Tenant's rental unit door and door frame.
- 3) Have regular daily cleaning of washrooms.
- 4) Have regular daily removal of garbage from common areas.
- 5) To hire a professional pest control technician to assess and treat any pest control problems.
- 6) To make repairs/renovations to ceiling flood damage subject to WorkSafeBC order.

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: October 23, 2013

Residential Tenancy Branch

