



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: O, OLC, RP, RR

Introduction

This hearing was scheduled in response to the tenant's broad application for "Other." The tenant attended and gave affirmed testimony. During the hearing the tenant explained in greater detail the nature of her application. In the result, I find that the tenant has specifically applied for the following:

- an order instructing the landlord to comply with the Act, Regulation or tenancy agreement;
- an order instructing the landlord to make repairs to the unit, site or property;
- permission to reduce rent for repairs, services or facilities agreed upon but not provided.

Despite service of the application for dispute resolution and notice of hearing (the "hearing package") by way of registered mail, the landlord did not appear. Evidence submitted by the tenant includes the Canada Post tracking number for the registered mail, and the Canada Post website informs that the item was "successfully delivered."

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

In response to an earlier and similar, but not identical application by the tenant, a hearing was held on June 20, 2013. By way of decision issued on that same date, the Arbitrator issued ORDERS instructing the landlord as follows:

1. Clean the exterior windows of the tenant's rental unit by July 15, 2013.
2. Fix the bathroom shower faucet by June 30, 2013.

In this present hearing the tenant testified that the landlord has not complied with either of the above 2 orders, and that this is the reason for her second application.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 32 of the Act addresses **Landlord and tenant obligations to repair and maintain**, in part as follows:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant

Further, the attention of the parties is drawn to relevant Residential Tenancy Policy Guidelines, as follows:

Guideline #1: "Landlord & Tenant – Responsibility for Residential Premises"

Guideline #16: "Claims in Damages"

Guideline #22: "Termination or Restriction of a Service or Facility"

Based on the documentary evidence and the affirmed / undisputed testimony of the tenant, I find that the landlord has not complied with ORDERS issued by the Arbitrator by date of June 20, 2013. In the result, I find that the value of the tenancy has been diminished, specifically as a result of exterior windows which remain un-cleaned, and as a result of a bathroom shower faucet which has not been repaired.

Accordingly, I find that the tenant has established entitlement to compensation in the total amount of **\$621.00** (\$288.00 + \$333.00), which is calculated as follows:

Windows: (July 16 to October 19) 96 days x \$3.00 per day = **\$288.00**.

Faucet: (July 1 to October 19) 111 days x \$3.00 per day = **\$333.00**.

The tenant testified that rent is presently paid directly by the Ministry to the landlord. The tenant also testified that monthly rent was increased by \$25.00 from \$475.00 to \$500.00 effective October 1, 2013. Further, the tenant testified to her understanding which is that the Ministry's payment of rent for October may not have included the \$25.00 rent increase. There is no documentary evidence before me, however, which confirms specific details related to the amount of rent paid for October.

Following from all of the foregoing, I hereby ORDER that the tenant may recover the entitlement of **\$621.00** by way of withholding a combined total amount from rent due for November and December 2013. The ORDER is illustrated as follows:

- if monthly rent is \$475.00, then \$475.00 may be withheld from November's rent, and \$146.00 may be withheld from December's rent
($\$475.00 + \$146.00 = \$621.00$)

ALTERNATIVELY,

- if monthly rent is \$500.00, then \$500.00 may be withheld from November's rent, and \$121.00 may be withheld from December's rent
($\$500.00 + \$121.00 = \$621.00$)

If by October 19, 2013, the landlord has still not complied with the ORDERS issued by date of June 20, 2013, the tenant has the option of making a further application for dispute resolution.

Conclusion

Pursuant to the details set out above, I hereby ORDER that the tenant may withhold a combined total of **\$621.00** from rent due for November and December 2013.

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 02, 2013

Residential Tenancy Branch

