



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, FF, RR, RP, OLC, LAT

Introduction

This hearing dealt with an application by the landlord seeking an order of possession. The tenants filed an application seeking to have the One Month Notice to End Tenancy for Cause set aside, a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, an order to have the landlord comply with the Act, regulation or tenancy agreement, an order to have the landlord make repairs to the unit, site or property, and an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is either party entitled to any of the above under the Act, the regulation or the tenancy agreement?

Background and Evidence and analysis

Both parties agree to the following:

The tenancy began on or about October 1, 2011. Rent in the amount of \$1400.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$700.00.

At the outset of the hearing the tenants advised that they would be moving out of the suite by 1:00 p.m. on November 30, 2013 and had no issue with the landlord receiving an order of possession; accordingly the landlord is granted an order of possession. The tenants must be served with the order of possession. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court. The tenants further advised that the only matter they wished to pursue and address at today's hearing was the monetary claim.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim, in this case the tenants must prove their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

I address the tenants' claims and my findings as follows:

Tenants First Claim- The tenants are seeking \$2940.00 for 6 months of harassment and impeded their right to quiet enjoyment. The tenants stated that the landlord would falsify complaints from other tenants to harass them. The tenants stated that the landlord conducted an illegal suite inspection and that it invaded their quiet enjoyment. The tenants stated the landlord would use intimidation and interrogation tactics to harass them. The landlord disputed this claim. The landlord stated that he did in fact forward all complaints to the subject tenants but that he was only doing his job. The landlord submitted several written complaints and stated that he had many verbal complaints about the tenants making noise and having parties. I accept the testimony of the landlord and that he was conducting his business in accordance with the Act. The tenants have failed to satisfy all four grounds as noted above. I dismiss this portion of the tenants' application.

Tenants Second Claim – The tenants are seeking \$840.00 for 24 months of non-operational intercom system. The tenants stated that the intercom has been problematic throughout the tenancy and that it rarely worked. The tenants stated the landlord accused their friends of being “heavy handed” when pushing the buttons and damaging it. The landlord stated that everyone in the building is in the “same boat”. The landlord stated that he fixed the intercom twice but it's an older building and said “I've given up”. I am satisfied that the tenants are entitled to some compensation but not to what was being sought. I find a nominal amount of \$100.00 is appropriate under the circumstances.

Tenants Third Claim – The tenants stated that they are seeking \$420.00 for 3 months of a non functioning bathroom tap. The landlord stated that he takes responsibility for this and does not dispute the claim. The tenants are entitled to \$420.00.

As for the monetary order, I find that the tenant has established a claim for \$520.00. I grant the tenant an order under section 67 for the balance due of \$520.00. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

As neither party was completely successful in their application I decline to award either of them the recovery of the filing fee and they must each bear that cost.

Conclusion

The landlord is granted an order of possession. The tenants are granted a monetary order for \$520.00.

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: November 28, 2013

Residential Tenancy Branch

