



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, MNSD, OLC, RR

Introduction

This hearing was scheduled in response to an application by the tenants for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / return of the security deposit / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / and reduction of rent for repairs, services or facilities agreed upon but not provided. Tenant "IL" attended and gave affirmed testimony.

The tenant testified that the application for dispute resolution and notice of hearing (the "hearing package"), as well as a package of documentary evidence, were served on the landlord by way of registered mail. Evidence submitted by the tenant includes the Canada Post tracking numbers for the 2 items of registered mail. Despite this, the landlord did not appear.

Issue(s) to be Decided

Whether the tenants are entitled to any of the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is 1 of 4 units within a 2 storied fourplex. Pursuant to a written tenancy agreement, the fixed term of tenancy is from September 1, 2013 to August 31, 2014. Monthly rent of \$650.00 is due and payable in advance on the first day of each month, and a security deposit of \$325.00 was collected.

The tenant testified that she and her husband met with the landlord in early to mid August 2013, at which time the landlord assured them that repairs / renovations at the unit would be completed by September 1, 2013. However, the tenant testified that when they began moving into the unit they found that the repairs / renovations agreed to were far from being completed. Problems included, but were not necessarily limited to, unfinished painting, unfinished moldings, unfinished walls, unsecured electrical wiring,

and damaged / deteriorated front steps. Additionally, the tenant testified that there were periods of time during which the telephone was out of order, and as walls had not been completely sealed the unit was unable to be kept sufficiently warm. Further, the tenant testified that the unit was not clean throughout when they took possession and they undertook themselves to complete much of the cleaning.

By letter dated October 15, 2013, the tenants gave notice to end tenancy effective December 1, 2013. Subsequently, the tenants vacated the unit by November 29, 2013, at which time the tenant testified that she and her husband continued to feel that the unit was still not suitable for occupancy. Rent was paid to the end of November 2013.

A move-in condition inspection report was not completed at the start of tenancy. Later, however, by way of a "notice of final opportunity to schedule a condition inspection," the landlord proposed that a move-in condition inspection be completed approximately 8 weeks after the start of tenancy on October 24, 2013 at 4:00 p.m. Both parties participated in the inspection at that time but tenant "SL" declined to sign the move-in condition inspection report. Tenant "IL" testified that there was no move-out condition inspection or report completed.

The tenant testified that after a certain point the landlord declined to speak with them. Accordingly, the keys to the unit were left behind for the landlord at the end of tenancy. No forwarding address has presently been provided to the landlord.

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

At the outset, the attention of the parties is drawn to the following particular sections of the Act:

Section 23: **Condition inspection: start of tenancy or new pet**

Section 24: **Consequences for tenant and landlord if report requirements not met**

Section 35: **Condition inspection: end of tenancy**

Section 36: **Consequences for tenant and landlord if report requirements not met**

Section 27: **Terminating or restricting services or facilities**

Section 32: **Landlord and tenant obligations to repair and maintain**

Section 28: **Protection of tenant's right to quiet enjoyment**

Based on the documentary evidence and the affirmed / undisputed testimony of tenant "IL," I find that the tenants have established entitlement to compensation equal to 1 month's rent under the tenancy agreement in the amount of **\$650.00**. Accordingly, I hereby issue a **monetary order** in favour of the tenants to that effect. In summary, I find that this entitlement has been established on the basis that services (telephone) and facilities were temporarily terminated or restricted / that repairs, services and facilities agreed upon were not provided / that the tenants completed certain cleaning required within the unit at the start of tenancy / and more broadly that there was a breach of the tenants' right to quiet enjoyment.

As for the aspect of this application concerning return of the security deposit, the parties are informed of the provisions set out in section 38 of the Act which speaks to **Return of security deposit and pet damage deposit**. In short, as the tenants have presently not provided the landlord with their forwarding address in writing, this aspect of their application is hereby dismissed with leave to reapply.

Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenants in the amount of **\$650.00**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

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: December 09, 2013

Residential Tenancy Branch

