



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Pacifica Housing
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

MNDC OLC RP RR

Introduction

This hearing dealt with the tenant's application for monetary compensation, a reduction in rent, an order for repairs and an order that the landlord comply with the Act. The tenant and an agent for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation or a reduction in rent?

Should I order the landlord to do repairs?

Should I order the landlord to comply with the Act?

Background and Evidence

The tenancy began on September 1, 2013, with monthly rent of \$1355. On August 30, 2013 the landlord and the tenant carried out a move-in inspection and completed a condition inspection report. The report indicated that the unit was freshly painted; additionally, it indicated that the kitchen countertops were still to be replaced.

On September 29, 2013 the tenant reported to the landlord that there were mice in her unit; the unit smelled badly of cigarette smoke and had not been cleaned prior to her move-in; and she was still waiting for her countertops. The landlord attended at the unit on September 30, 2013 to check for mice, and they left sticky traps and covered any cracks or holes.

The tenant made further written and verbal complaints, and on October 8, 2013 the landlord left a notice for the tenant indicating that they would return the next day to remove the mouse traps. The tenant wrote on the notice "Already taken care of thanks."

On October 15, 2013 the landlord wrote to the tenant to notify her that they did not detect any unusual odours in her unit, and the new countertops would be installed as soon as staff was available. A pest control company attended at the rental unit on October 22, 28 and 30, 2013.

The tenant complained to the landlord verbally and in writing in early January 2014, regarding mice in her unit again, as well as “pot fumes and bass” coming into her unit from downstairs. The landlord had the pest control company attend the rental unit again on January 8, 13 and 17, 2014. Their report indicates that initially they discovered “minimal droppings,” and they set traps and blocked a hole with steel wool. By January 17, 2014 they found no further activity in the rental unit but they recommended that the building complex should be inspected to determine the level of infestation in other units. On January 29, 2014 the tenant applied for dispute resolution.

Tenant's Evidence

The tenant stated that less than two weeks after her tenancy began, she had mice. The tenant was concerned about the health of her 14-month-old child, so she moved back to her parents' house while the landlord addressed the problem. The tenant stated that her father blocked the holes and she moved back in but had to move out again a few days later because of the recurrence of mice. The tenant stated that she was out of the rental unit for one and a half months because of the problem, and during that time she incurred costs for phone, cable and power bills while she was not in the unit; rent she paid to her parents; gas costs going back and forth; and her father's labour and materials costs for dealing with the mouse infestation.

The tenant stated that she did not pay much attention at the move-in inspection because of her toddler. However, the rental unit still reeks of cigarette smoke, there are no new countertops, and the mice have returned again. The tenant stated that she is a wreck, and full of anxiety; because of these problems she has lost weight and has sleeping problems; and she feels like a victim.

I note that the tenant applied for monetary compensation of \$8889.12, but she did not provide a detailed calculation of her monetary claim.

Landlord's Response

The landlord stated that there were no previous reports of mice, in the rental unit or in the building. No evidence of mice was found during the renovations or the move-in inspection. The tenant first reported the problem on September 30, 2013, and the landlord went in right away and left sticky traps and covered any holes. The tenant wrote on the October 8, 2013 notice that the mice were no longer an issue, so the landlord did not follow up at that time.

The landlord stated that when the tenant reported in mid-October 2013 and again in January 2014 that she still had mice, they brought in the pest control company. The landlord acknowledged that she had attended at the rental unit on March 17, 2014 and she saw some mouse droppings in the unit. The landlord asked the neighbours in the rental units beside and below the tenant's unit whether they had any problems, but none of them reported mice.

Analysis

I find that the tenant is not entitled to monetary compensation as claimed, because she did not provide a detailed breakdown of her claim as required. Additionally, any costs the tenant incurred while staying at her parents' house for one and a half months was her decision and the landlord had not agreed beforehand to cover those costs.

I find that it is necessary to order the landlord to comply with the Act and carry out repairs regarding the kitchen countertops and the mice.

The landlord informed the tenant in October 2013 that they would install the countertops when staff was available; this is not an acceptable response, particularly given that the landlord indicated on the move-in inspection that the countertops were going to be installed. I therefore order the landlord to install the countertops by April 30, 2014, and I grant the tenant a reduction in rent of \$50 per month beginning November 2013 and continuing until such time as the new countertops are installed.

I find that the landlord adequately responded to the tenant's first two complaints of mice, and I therefore decline to award the tenant a monetary order or a reduction for the mouse problem at this time. However, as the landlord identified that there are still mice in the rental unit, I order the landlord to immediately address this issue by having the pest control company attend at the rental unit and also inspect the rest of the building complex to determine the level of infestation. The landlord must present the tenant a copy of the pest control report for her unit and the building complex. If the tenant is not satisfied with the outcome, she may re-apply for a reduction in rent or other monetary compensation.

Regarding the smell of cigarette smoke in the unit, I accept that if the unit only received one new layer of paint and the previous tenants were smokers, there may be a lingering smell that has come through. There may have been factors at play on the date the landlord attended the unit that prevented them from smelling the smoke, and the current odour may be due to other smokers in the building. I do not find that the landlord has been negligent in addressing this complaint; however, I also accept the tenant's evidence that, to her, the unit "reeks" of cigarette smoke. I therefore order the landlord to carry out one further inspection of the rental unit to determine if there is an odour of cigarette smoke, and if there is, the landlord is ordered to take steps to remedy the issue. If the tenant is not satisfied with the outcome, she may re-apply for a reduction in rent or other monetary compensation.

Conclusion

I order the landlord to install the countertops by April 30, 2014. If the landlord does not complete the installation by that date, the tenant may continue to deduct \$50 per month from her rent until such time as the work is done.

I order the landlord to immediately address the mouse infestation issue by having a pest control company attend at the rental unit and also inspect the rest of the building complex to determine the level of infestation. The landlord must present the tenant a copy of the pest control report for her unit and the building complex within 15 days after the inspection has been carried out.

The tenant is entitled to deduct \$250 from her next month's rent, as compensation from November 1, 2013 to March 31, 2014 for the landlord's negligence in installing new kitchen countertops. If the landlord failed to install the new countertops in April 2014, the tenant may also deduct a further \$50 from her next month's rent, representing compensation for April 2014.

I order the landlord to carry out one further inspection of the rental unit to determine if there is an odour of cigarette smoke, and if there is, the landlord is ordered to take steps to remedy the issue.

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: April 11, 2014

Residential Tenancy Branch

