



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes: MNDC, ERP, RP, FF

Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

Preliminary Issue:

The tenancy agreement provided that the number company was the landlord and the individual respondent was an agent for the numbered company. The tenant failed to name the numbered company as a respondent. The individual respondent stated he acts on behalf of the numbered company and he consented to amending the Application for Dispute Resolution to include the numbered company.

The individual respondent testified that while the tenant provided him with a package including her evidence she did not include a copy of the Application for Dispute Resolution which identifies and quantifies her claim. I asked whether he was seeking an adjournment. He stated that he did not wish an adjournment and consented to the hearing proceeding. I proceeded with the hearing.

The tenant is extremely upset with the landlord. The Application for Dispute Resolution seeks a monetary order in the sum of \$1913.27. The claim includes items which the tenant testified the agent for the landlord either orally agreed to fix or is included in

writing as part of the tenancy agreement. The second part of the tenant's claim refers to expenses that she has incurred as a result of a flood that occurred on September 28, 2013.

The landlord disputes many of the tenant's claims. He testified that there was no agreement between the parties that he would repair the items claimed by the tenant. The tenant was a previous homeowner and has made these improvements on her own.

Further, the tenant requested that a new floor be installed. The landlord did not intend to replace the floor as it was not in bad condition. The parties orally agreed that the new floor would be installed and they would split the cost. The landlord testified it cost approximately \$1300 to install the floor. The tenant refused to pay her share. The parties subsequently agreed that the tenant would be responsible to incur the costs she had already made and the landlord would waive the claim for her share of the \$1300. The tenant did not deny this alleged oral agreement. However, she testified she is not bound by this as it was not in writing.

The tenant testified that she experienced a significant flood that occurred on September 28, 2013. She contacted the landlord. She is very upset with the landlord as she testified the landlord failed to respond quickly, failed to assist her in restoration and clean-up and has failed to compensate her. The landlord responded by saying that he was in Vancouver when he got the telephone call. Based on the information provided by the tenant it appeared there was a plumbing problem. The landlord contacted a plumber who attended within 45 minutes of him receiving the call. On investigation it was determined the problem was not plumbing but caused by a blockage in drain of the balcony of the upstairs tenant. The owner and his handyman were subsequently called and repairs made. The tenant refused to give the agent for the landlord access to inspect the area. The agent testified the handyman told him the problem was not significant.

The tenant testified the landlord failed to make a number of repairs that are set out in the tenancy agreement. However, the tenant has not filed a claim for a repair order. An arbitrator is limited to considering only those claims that have been properly brought in the application for dispute resolution.

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to an order for the abatement of past or future rent and if so how much?
- c. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on May 1, 2013 and provided it would continue on a month to month basis. The tenancy agreement provided that the tenant(s) would pay rent of \$1500 per month payable on the first day of each month. The tenant(s) paid a security deposit of \$750 at the start of the tenancy.

Application for a Monetary Order & Reduction of Past Rent:

With respect to each of the tenant's claims I find as follows:

- a. I determined the tenant is entitled to \$4.97 for the cost of replacing a broken window lock.
- b. I determined the tenant is entitled to \$24.96 for the cost of replacing a broken lamp. The landlord's agent inadvertently broke the lamp. The amount claimed is reasonable.
- c. I dismissed the tenant's claim in the sum of \$128 for the cost of a kitchen faucet, \$18.99 for the cost of a light in the laundry room and \$11.44 for the cost of a closet track as the tenant did this work without the landlord's consent and agreement.

- d. The tenant claimed the sum of \$460 for repairs to the patio. The written tenancy agreement indicates the patio was in need of repair but it does not provide that the patio is a item in which the landlord has agreed to make repairs. The tenant failed to prove there was an oral agreement the landlord would make repairs. The tenant did the work without the consent or approval of the landlord. The landlord testified that it is likely the work will have to be re-done so that the patio is consistent with surrounding suites. I dismissed this claim as this is not an emergency repair as defined by the Residential Tenancy Act and the landlord did not agree to compensate the tenant.
- e. I determined the landlord is responsible for the reasonable and proven costs incurred by the tenant in dealing with the flood of late December. The flood occurred as a result of defects in the building's outdoor drainage. As a result I determined the tenant has I determined the tenant is entitled to \$108.50 for the cost of cleaning laundry.
- f. I determined the tenant is entitled to \$157.50 for the cost of cleaning a wool carpet.
- g. I accept the evidence of the tenant that a problem continued to exist with the presence of mould in the rental unit caused by the flood and the landlord failed to take proper steps to rectify the problem. I determined the tenant is entitled to \$262.19 for the cost of purchasing an air filter that would remove the mould spores.
- h. I determined the tenant is entitled to \$50 which is the reasonable cost for additional hydro to run the fans to dry the unit.
- i. The tenant claimed \$265 for the cost of 3 missed days of work. She failed to provide particulars as to which days she missed. She also failed to provide documentary evidence as to her daily salary. This claim is dismissed. However, I determined the tenant is entitled to reasonable compensation for the work that she did in dealing with the flood and the aftermath. In the circumstances I determined the sum of \$150 is fair compensation.

In summary I determined that the tenant has established a claim against the landlord in the sum of \$758.12 plus \$50 for the cost of the filing fee for a total of \$808.12.

Reduction of Rent

The tenant has not made an application for a repair order. I determined it was not appropriate to make an order for a reduction of future rent in the absence of such an application.

Conclusion

I ordered the landlord(s) to pay to the tenant the sum of \$758.12 plus the sum of \$50 in respect of the filing fee for a total of \$808.12.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: March 04, 2014

Residential Tenancy Branch

