



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RP, RR, FF

Introduction

This was a hearing with respect to the tenant's application for a repair order, a rent reduction and a monetary order. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing. At the hearing the tenant advised that the reason for requesting a repair order had resolved and the tenant was seeking a monetary award for compensation.

Issue(s) to be Decided

Is the tenant entitled to a monetary award as compensation for compensation for inconvenience and loss of quiet enjoyment and if so, in what amount?

Background and Evidence

The rental unit is a residence in Chilliwack. The tenancy began in December, 2012. The monthly rent is \$1,200.00. The tenant testified that in early January, about the 4th she became aware of a terrible smell inside the master bedroom of the rental unit. She reported it to the landlord by text messages and finally received permission to call a "pest detective". On January 14th the inspector performed an inspection of the rental property. A report was provided; it stated as follows:

Inspection revealed moderate signs of rat presence. Bait was located below house, death smell coming from below bedroom, no rodents dead or otherwise seen. Access into walls can be seen throughout crawlspace, boards blocking access below bedroom & strength of odor suggest 'body' is in the wall. Deconstruction may be required, left deodorizer.

The tenant testified that the smell was so strong and noxious that it made the bedroom uninhabitable and she had to move out of the bedroom. The tenant felt that the landlord

did not take her reports seriously and minimized the extent of the problem. The landlord told the tenant that she did not think the smell was that bad, however she made this comment when the bedroom had been left with the door and window open in order to deal with the problem. The tenant said that the landlord was not willing to take appropriate steps to fix the problem; instead of taking steps to open the wall and remove the decomposing source of the odour, the landlord proposed only that a deodorizer be applied in the crawlspace. The landlord wanted to bring someone else to make an inspection without giving proper notice to the tenant when the tenant needed to be away to attend a funeral. There was a further inspection by the landlord's maintenance company on January 24th. The note provide by the maintenance man mentioned that there were old rat droppings in the crawlspace, but no sign of dead animals. The note advised the renter "to air out room and put in odourizers".

The tenant testified that instead of acting to fix the problem the landlord encouraged her to move and offered to return her security deposit if she moved. The tenant said that the smell has finally dissipated, but not because of any action taken by the landlord. She conjectured that it is because the process of decomposition has finally run its course. The tenant said that the situation has been so poorly dealt with that she has decided to move even though she likes the rental unit. The tenant testified that she is now seeking a monetary award to compensate her for costs, including the increase in heating costs, undue stress from the landlord's failure to take her complaint seriously, this inconvenience of not having the use of her bedroom and for what she described as harassment by the landlord in trying to get her to move and refusing to take proper steps to eradicate the source of the odour.

The landlord's testified that she has acted promptly and endeavoured to fix the odour problem appropriately. She disagreed with the tenant's contention that she should have started cutting open walls to investigate the source of the odour. The landlord said that she was sympathetic to the tenant's concerns but she did not perceive the smell to the same degree as reported by the tenant. The landlord said that she was not trying to encourage the tenant to move. She said she regarded the tenant as a good tenant and would be happy to continue her tenancy, She testified that she only offered the tenant the option of moving, because she did not have a specific solution to address the odour problem.

Analysis

Based on the evidence presented by the tenant I accept that there was a noxious odour present in the bedroom and, based on the January 14th report, I find that the likely source was a decomposing rodent. I accept that for a time the tenant was unable to

tolerate the smell and had to vacate her bedroom, to sleep, dress and undress elsewhere in the house. I find that this constituted a loss of quiet enjoyment for which she is entitled to some compensation. I do not, however, find that the landlord acted inappropriately, or that her behaviour to the tenant would justify any additional award of compensation.

Conclusion

Based on the evidence of loss of quiet enjoyment of the bedroom for the period in question and for any additional heating costs that may have been incurred, in the absence of actual proof of such amounts, I award the tenant the sum of \$450.00. The tenant is entitled to recover the \$50.00 filing fee for this application, for a total award of \$500.00 and I grant the tenant an order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court. Assuming the tenancy continues, the tenant may deduct the said sum from a future installment of rent in satisfaction of the award.

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 26, 2014

Residential Tenancy Branch

