



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Coast Properties Foundation, Coast Mental Health and Coast Foundation Society
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, FF

Introduction

This is an application filed by the tenant for a monetary order for compensation for the loss of use of a patio and recovery of the filing fee.

Both parties attended the hearing by conference call and gave undisputed evidence. As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties have been properly served.

Issue(s) to be Decided

Is the tenant entitled to a monetary order?

Background and Evidence

The tenant states that he lost the use of a rooftop patio from May 15, 2012 to December 13, 2012 for approximately 7 months. The landlord confirmed in his direct testimony that the roof was degrading and required work because of structural problems and that work took longer than the planned 1 ½ months. The tenant stated that he requested compensation for the loss of use of the patio in a letter dated October 3, 2012, but that there was no response from the landlord.

The tenant states that the monthly rent at the time was \$920.00 and that his unit is approximately 1,130 sq. ft. The patio is approximately 330 sq. ft. The tenant states that he had to store his patio items in his front room. The tenant requests compensation in the amount of \$1,880.69. The tenant states that this is based upon a pro-rated amount of the rent divided by the total square footage and the total area of the patio. The tenant states that this amount is multiplied by the 7 month period for the loss of use. The

landlord disputes this claim stating that the loss of a roof top patio is different than the loss of living space in the unit, but that the tenant was accurate for the period of loss of use.

Analysis

I accept the undisputed evidence of both parties and find that a loss of use did occur for the patio between May 15, 2012 and December 13, 2012 for 7 months. I also find it reasonable based upon the tenant's calculations that at 330 sq. ft. the tenant's loss of use equated to approximately 30% of the total rental unit. The tenant has established a claim for \$1,880.69 for loss of use of the patio for 7 months. The tenant is also entitled to recovery of the \$50.00 filing fee. The tenant is granted a monetary order for \$1,930.69. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The tenant is granted a monetary order for \$1,930.69.

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: August 27, 2014

Residential Tenancy Branch

