



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Top Producers Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, RP, ERP, RR, FF, O

Introduction

This hearing dealt with an application by the tenants

- for an order for money owed or compensation for loss or damage under the Act, Regulation, or tenancy agreement;
- for an order that the landlord make emergency repairs;
- for an order that the landlord make repairs to the unit, site, or property;
- for an order allowing the tenants to reduce rent for repairs, services, or facilities agreed upon but not provided; and
- to recover the RTB filing fee

A representative for the landlord and one of the tenants attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Are the tenants entitled to an order for money owed or compensation for loss or damage under the Act, Regulation, or tenancy agreement?

Are the tenants entitled to an order that the landlord make emergency repairs?

Are the tenants entitled to an order that the landlord make repairs to the unit, site, or property?

Are the tenants entitled to an order allowing them to reduce rent for repairs, services, or facilities agreed upon but not provided?

Background and Evidence

The tenancy agreement signed by the parties on February 20, 2014 indicates the tenancy is a one-year fixed term starting March 1, 2014 and the tenants are obligated to pay rent of \$1,550.00 monthly in advance on the first day of the month. The tenants also paid a security deposit of \$775.00.

The tenants gave evidence that, after the hot water tank was replaced in May 2014, a neighbour alerted them to the possibility that pipes in the laundry room were wrapped in asbestos tape. The tenants say they told the property manager and she visited the property and took photographs on May 30, 2014.

The tenants say that on July 31, 2014 they again asked the property manager when the asbestos would be dealt with. They repeatedly contacted her over the month of August. The property owner, his family members, and some unidentified men came to the rental property several times in August. One of the men, against the tenants' objections, removed a piece of the asbestos tape himself for testing.

The landlord provided a copy of an Asbestos Abatement report from Phoenix Enterprises Ltd stating that an asbestos abatement project was completed at the rental property on September 12, 2014.

The tenants no longer seek an order for repairs or emergency repairs. However, they seek a retroactive rent reduction for the four months it took to deal with the asbestos. They say a month would have been a reasonable length of time to wait for the problem to be dealt with.

The landlord gave evidence that they discovered the possible asbestos on June 6, 2014 when they did a suite inspection. She said asbestos tape on piping is very common and does not release into the air unless the tape is damaged. She provided a copy of an email exchange with Phoenix Enterprises Ltd dated September 17, 2014:

Property manager: "Would you be able to tell me or maybe the technician who attended if any of the asbestos tape that was on these pipes could have been a potential health risk? Also if a small piece was ripped off what chances of a potential health risk? Fibers in the air? ..."

Phoenix: "Small amounts of exposure is not a risk. For someone to see any health issues they would have to be exposed to asbestos for long periods of time. [Phoenix cites three photos of tape that is broken] These are the only ones that would have any chance of allowing fibres to be released under the right conditions. But do not pose a risk as they stand."

The landlord says the tenants did not seem to be in a rush to have it dealt with, until some conflict with the owner when he attended the property in August. She says the

tenants have held back half their rent for September 2014 and that is reasonable compensation for the delay.

Analysis

Section 32(1) of the Residential Tenancy Act says:

- (1) A landlord must provide and maintain residential property in a state of decoration and repair that
 - (a) complies with the health, safety and housing standards required by law, and
 - (b) having regard to the age, character and location of the rental unit, makes it unsuitable for occupation by the tenant.

I understand the tenants' position to be that the landlord breached the landlord's duty to maintain the rental unit in accordance with this section, because of the delay in dealing with the asbestos. In order for the tenants' claim to succeed, there must be some health, safety, and/or housing standard that requires a landlord to abate asbestos in a rental unit.

The tenants drew my attention to the Healthlink BC website, which contains information about asbestos at File #32. The website provides information aimed at homeowners for dealing with asbestos, however it does not indicate that homeowners are required by law to take any particular steps.

The Workers Compensation Act Occupational Health and Safety Regulation (the "OHS Regulation") sets out requirements for dealing with asbestos, however it is employers who are required to take certain steps to protect workers. The OHS Regulation does not appear to require landlords take particular steps to protect tenants. I note that a rental unit may also be a place of employment (for example, for property managers) however this is a claim by tenants.

In summary, I am not aware of any legislation that specifically requires landlords to abate asbestos for the sake of tenants, and the tenants did not provide information which indicates there is any such legislation. For that reason, I find the landlord did not breach Section 32 by failing to deal with the asbestos promptly.

I note that Section 33 also mentions health and safety, in the context of emergency repairs. However, Section 33 does not apply to the situation at hand, since asbestos abatement is not one of the types of repairs specified in Section 33(c).

Since I have not identified a breach of the Act, Regulation, or tenancy agreement by the landlord in dealing with the asbestos, I must dismiss the tenants' application.

Conclusion

The tenants' application is dismissed.

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: October 06, 2014

Residential Tenancy Branch

