



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 hearing was convened by way of conference call concerning an application made by the tenant for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order that the landlords make repairs to the unit, site or property; for an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided; and to recover the filing fee from the landlords for the cost of the application.

The tenant and one of the landlords attended the hearing, and both parties gave affirmed testimony. One page of evidence has been provided by the tenant to the Residential Tenancy Branch and to the landlords, however the landlord indicated that the copy received by the landlords differs in that the document contains a list of repairs numbered 1 to 11 and the landlords' copy only contains items numbered 1 to 10. The landlord did not object to the inclusion of the evidence and accepted it as an amendment. The parties were given the opportunity to cross examine each other on the evidence and testimony provided, all of which has been reviewed and is considered in this Decision.

No other issues with respect to service or delivery of documents or evidence were raised.

Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement and more specifically for the landlords' failure to comply with an order of the City?
- Has the tenant established that the landlords should be ordered to make repairs to the unit, site or property?

- Has the tenant established that rent should be reduced for repairs, services or facilities agreed upon but not provided?

Background and Evidence

The tenant testified that this fixed term tenancy began on March 1, 2014 and reverts to a month-to-month tenancy after the first 6 months, and the tenant still resides in the rental unit. Rent in the amount of \$1,000.00 is payable on the 1st day of each month. No rental arrears exist except for this month. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$500.00 as well as a pet damage deposit in the amount of \$100.00, all of which is currently held in trust by the landlords. A written tenancy agreement exists, but a copy has not been provided for this hearing. No move-in condition inspection report was completed by the parties at the commencement of the tenancy.

The tenant has provided a copy of a note dated August 1, 2014 addressed to the landlords, the BC Tenancy Board, and the City. The note lists repairs and maintenance required for the rental unit in numbered form from 1 to 11. Item 7 states: "Replace single pane windows with thermal windows in living room, kitchen, laundry room, second bedroom and loft. Currently thermal windows are only in the master bedroom and bathroom. To be completed by Aug 30, 2014." The tenant stated that he has no documentation to prove that thermal windows are required.

The tenant further testified that in July, 2014 the tenant had to start taking action and put his concerns in writing to the landlords. The tenant didn't keep a copy of the request, but the parties had conversations and the landlords knew about some of the issues. The parties specifically had a discussion about insulation and one of the landlords advised the tenant that he would not do any of the repairs, so the tenant put it all in writing.

The tenant further testified that he felt had had been taken; the landlords had full knowledge that they were not allowed to rent the unit due to a "no occupancy" order by the City. In 1987 the Order was sent to the then owner because the property is zoned for 1 residence and the cottage is the rental unit so 2 residences are there. The Order has nothing to do with health or safety. Upon speaking with a representative of the City, the tenant testified that he was told if he put a complaint in writing, the City will tear the building down.

The landlord testified that upon receiving the tenant's original request for repairs, the landlords took steps to show good faith by making some of the repairs. They installed screens, left a smoke detector for the tenant, but the tenant wanted to install it, cleaned

up the yard and fixed a leaking seal in the toilet. She testified that the tenant did not ask if the rental unit was properly insulated, but asked about utilities and the landlords told him what the previous tenants had paid. The landlord denies that the tenant was ever told that the landlord would not make repairs. The landlord also testified that she and her children resided in the rental unit in 1999 and in 2008 and there were no mold issues or complaints from other tenants. The rental unit was freshly painted prior to the commencement of this tenancy.

The landlord also asserted that the tenant's major basis in asking for a rent reduction is an allegation of fraud by the landlords.

During the course of the hearing the landlord committed to the following repairs:

1. Inspect and remediate any mold issues in the crawl space and install insulation and ground seal to prevent further mold problems if required;
2. Close up openings in the foundation walls to prevent animals from living under the house;
3. Install a new window in the second bedroom to allow proper emergency exit and ventilation;
4. Install ventilation to the exterior in the bathroom and kitchen;
5. Will look into insulating the attic and walls of the house;
6. Replace broken window panes in the living room window;
7. Repair leaking and falling gutters;
8. Repair the chimney to prevent masonry debris from falling;
9. Install weather stripping around the living room exterior door;
10. Repair or replace the front steps.

Analysis

The *Residential Tenancy Act* requires a landlord to provide and maintain a rental unit in a state of decoration and repair that complies with the housing standards required by law, and having regard to the age, character and location of the rental unit makes it suitable for occupation. The tenant claims that the landlords fraudulently entered into a contract with the tenant knowing that the rental unit was the subject of a "no occupancy" order, but has not provided a copy of the order. I have no evidence before me that the order is conditional or otherwise. The evidence before me is that the order was with respect to zoning, and not for health or safety reasons.

The landlord has agreed to make most of the repairs requested by the tenant. The issue of replacing windows with thermal pane windows was not agreed by the landlord,

and I find that the tenant has failed to provide any evidence that thermal pane windows are required by any law.

The landlord has also agreed to look into the insulation as requested by the tenant, but I have no evidence before me of what exactly is required or why.

The tenant made a request in writing to the landlords and the landlords took steps to correct issues. I have no evidence before me that the landlords have failed to comply with the *Residential Tenancy Act* or have failed to provide repairs, services or facilities agreed upon, and therefore the tenant's application for a reduction in rent is dismissed.

In the circumstances, I order the landlords to comply with the agreement as set out above with respect to repairs and investigation by October 15, 2014. If the landlords fail to comply, the tenant will then be at liberty to apply for a reduction in rent for the landlords' failure to provide repairs agreed upon.

Since the tenant has been partially successful with the application, I find that the tenant is entitled to recovery of the \$50.00 filing fee. I order the tenant to reduce a future month of rent by \$50.00 as recovery, and the balance of the tenant's application is hereby dismissed.

Conclusion

For the reasons set out above, I hereby order the landlord to comply with the commitment to make or investigate repair issues as follows:

1. Inspect and remediate any mold issues in the crawl space and install insulation and ground seal to prevent further mold problems if required;
2. Close up openings in the foundation walls to prevent animals from living under the house;
3. Install a new window in the second bedroom to allow proper emergency exit and ventilation;
4. Install ventilation to the exterior in the bathroom and kitchen;
5. Investigate insulation in the attic and walls of the house;
6. Replace broken window panes in the living room window;
7. Repair leaking and falling gutters;
8. Repair the chimney to prevent masonry debris from falling;
9. Install weather stripping around the living room exterior door;
10. Repair or replace the front steps.

I order the landlords to complete the above list by October 15, 2014. If the landlords have failed to complete the list by that date, the tenant will be at liberty to make an application for a reduction in rent for failing to provide repairs agreed upon by the parties.

I hereby order the tenant to reduce a future month of rent by \$50.00 as recovery of the filing fee.

The balance of the tenant's application is hereby 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: September 24, 2014

Residential Tenancy Branch

