



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Property Management Kelowna
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 loss of use/quiet enjoyment of the rental unit and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the landlord's documentary evidence, I am satisfied that both parties have been properly served.

During the hearing, the tenants advised that they have both moved and no longer reside at the rental address. The tenants did not provide their new mailing address as is required by the Residential Tenancy Branch. At this time, the tenants provided one address for delivery of the decision. The Residential Tenancy Branch File shall be updated to reflect the new address for service for both tenants.

Issue(s) to be Decided

Are the tenants entitled to a monetary order?

Background and Evidence

This tenancy began on November 1, 2011 on a fixed term tenancy ending on August 31, 2014 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent was \$1,100.00 payable on the 1st of each month and a security deposit of \$550.00 was paid.

Both parties confirmed that a flood caused damage to the rental unit. The tenants state that they suffered a loss of use of a bedroom in the suite from December 20, 2013 to March 18, 2014. The tenant states that there was a loss of use of the kitchen/dining room as there were no lights due to the damage to the ceiling from the flood. The

tenants state that there was limited use of the kitchen due to restoration work in the kitchen ceiling. The tenants state that they lost the use of one bedroom because of packing all of their living room and placing it into one of the bedrooms. The tenants state that on several occasions water to the building was shut off.

The tenants also state that an ongoing issue of having no fireplace as it has not worked since they moved in. The tenants state that the landlord was notified to fix the fireplace, but that no action was taken. The tenants also state that they discovered that the fire alarms in the rental unit have not functioned at all during their tenancy.

The tenants seek compensation of \$1,430.00, which consists of \$1,100.00 for 1/3 of the rent for 3 months for loss of use/quiet enjoyment and \$330.00 as compensation for the loss of use of a fireplace for 33 months at \$10.00 per month.

The landlord confirmed in his direct testimony that there was no lights in the kitchen/dining room as stated by the tenants for the time period as described by the tenants. The landlord states that the total work time by renovators only took 10 days. The landlord also states that upon being notified, the landlords did everything possible in a timely fashion. The landlord admits in his written summary that the tenants were inconvenienced, but that the tenants still resided at the rental unit. The landlords state that as part of their tenancy, condition #29, the tenants were responsible for having tenant insurance to cover the cost of alternate housing, cleaning and repair of their belongings. The landlord states that several attempts were made to fix the fireplace during the tenancy, but that they were unsuccessful. The landlord states that the fireplace has not been successfully repaired. The landlord states that once they were notified by the tenants that the smoke detectors were not functional, they immediately contacted the strata to repair them.

Analysis

I accept the evidence provided by both parties and find that the tenant has established that an inconvenience/loss took place. Both parties confirmed that a flood occurred which caused damage to the rental unit ceiling requiring restoration work. Although attempts were made the landlord has confirmed the tenant's claims that the fireplace was non-functioning during the tenancy for approximately 33 months. It cannot be said that the landlord did not make efforts to rectify the situation, but the tenants have none the less suffered a loss. Both parties have confirmed that there was limited use of the space. The tenants have suffered a loss of use of the kitchen/dining room and one of the bedrooms because of the flood damage. The tenants have not provided sufficient details of the monetary claimed amount other than to say that it is what they think is fair.

As such, I find that the tenants are entitled to compensation for loss of use/quiet enjoyment totalling, \$1,230.00 as a nominal award. This consists of \$900.00 for the loss of use/quiet enjoyment and \$330.00 for the loss of use of the fireplace. The tenants are also entitled to recovery of the \$50.00 filing fee. The tenants are granted a monetary order under section 67 for the balance due of \$1,280.00.

Conclusion

The tenants are granted a monetary order for \$1,280.00.

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: November 05, 2014

Residential Tenancy Branch

