



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O, RR

Introduction

A hearing was conducted by conference call in the presence of the applicant and in the absence of the respondent although duly served. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

The Residential Tenancy Act permits a party to serve another by mailing, by registered mail to where the other party resides. It is deemed received 5 days after mailing. The Supreme Court of British Columbia has held that a party cannot avoid service by refusing to pick up their registered mail. The tenant testified she attempted to serve the respondent by mailing, by registered mail to where the respondent resides on November 27, 2014. A search of the Canada Post tracking service indicates the respondent has not picked up the documents although Notification cards have been sent out. I determined there was sufficient service 5 days after mailing.

The tenant incorrectly switched her address for service and the dispute address. I ordered that the Application for Dispute Resolution be amended to switch the applicant's address and the dispute address.

Issue(s) to be Decided

The issue to be decided is whether the tenant is entitled to a monetary order and if so how much?

Background and Evidence

The tenant testified she agreed to rent the rental unit in late October after the landlord made a number of representations about what would be included with the rent. The rent was set at

\$750 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$375 on October 28, 2014.

The tenant seeks compensation for the reduced value of the tenancy based on the following:

- The landlord refused to provide laundry facilities as previously represented. The landlord locked the laundry door and some of her clothes are still there. The landlord has refused to return the clothes.
- The landlord promised adequate heat. However, the landlord controlled the baseboard heaters and she refused to put the heat on. The tenant was left with a small and inadequate space heater;
- The landlord promised internet access. This was very important for the tenant as her son is special needs and she needs access to the internet as part of his schooling;
- The landlord illegally entered her suite on 2 occasions;
- The landlord failed to adequately secure the backdoor. The backdoor was locked by a key from the inside. However, the landlord failed to provide a key and the tenant was not able to lock the rental unit;
- The landlord failed to provide a key for collecting the mail
- The landlord took notes left on her door, kept the originals and gave her photocopies.

The tenant vacated the rental unit on November 28, 2014.

Analysis

After carefully considering all of the evidence I determined the tenant has established a claim for the breach of the covenant of quiet enjoyment. The landlord has illegal entered the rental unit on two occasions. She failed to provide a secure back door and failed to provide adequate heat and laundry despite promising to do so. I determined there was a significant interruption in the enjoyment of the rental unit. The tenant was forced to hand wash her laundry. The heat was inadequate. In the circumstances I determined the tenant has established a claim in the sum of \$250 for the reduced value of the tenancy.

The documents filed by the tenant indicate that she sought the return of the security deposit. The Residential Tenancy Act provides that a landlord has 15 days after the later of the end of tenancy or the date the landlord receives the tenant's forwarding address in writing to file a

claim, enter into an agreement in writing or to return the security deposit. The tenant has not provided the landlord with her forwarding address in writing. As a result I determined the claim for the return of the security deposit is premature and it is dismissed with liberty to re-apply.

Conclusion

I ordered the landlord(s) to pay to the tenant the sum of \$250. The landlord does not have a legal right to keep the tenant's clothes. However, the tenant did not make a claim for the return of the clothes in the Application for Dispute Resolution. If the landlord fails to return the clothes the tenant has liberty to file another application for the return of her personal belongings.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

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: December 19, 2014

Residential Tenancy Branch

