



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ABSTRACT DEVELOPMENTS
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: ERP RP RR MNDC

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) That the landlord do emergency repairs pursuant to section 33;
- b) That the landlord repair and maintain the property pursuant to section 32;
- c) For a rebate of rent for repairs not done and for incorrectly charged hydro.

Service:

The tenant /applicant gave evidence that they personally served the Application for Dispute Resolution and the landlord agreed they received it. However, the landlord objected that a large amount of evidence was served subsequently and late and gave them inadequate time to prepare for the hearing. I find the Application was legally served for the purposes of this hearing but the evidence was served late. According to the Residential Rules of Procedure 3.14, evidence should be submitted not less than 14 days before the hearing. This evidence was submitted 12 days before the hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has not maintained the property contrary to sections 32 and 33 of the Act? Are they entitled to orders that the landlord do necessary repairs and to a rent rebate for repairs not done in a timely way?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced May 1, 2014 on a fixed term tenancy, rent is \$950 a month plus utilities and a security and pet damage deposit totalling \$950 was paid. The tenant on her Application requests a rebate of \$150 a month for repairs not done in a timely way, \$200 for hydro chargeback, \$45 for a showerhead (invoice provided), and \$8 for an

overcharge in rent. The landlord conceded the debt of \$45 for the showerhead and the \$8 overcharge.

The problems she lists on her application are the fireplace, outlets and switches, laundry and window screens. Although other items were discussed in the hearing, I will limit the consideration to the items on her application as the landlord validly objected that a large amount of evidence was submitted too late to be considered for a prepared response. The tenant said there was exterior wiring in the unit which she considered unsafe. When she informed the landlord, they did not respond so she called an inspector who prepared a report showing the wiring was non compliant in several areas. The landlord said a qualified electrician attended and repaired any problems in February 2015 and said it was all up to code. He verified this with an inspector. The tenant did not believe the landlord as she has not received a copy of the report. She said the electric problem did not affect her, other than her being concerned for safety.

She noted she asked to have the fireplace cleaned and when the landlord complied, it was found the fireplace was not safe to use. She claims for loss of this amenity. The landlord said that the unit was never advertised as having a fireplace and although it looked nice in the unit, a working fireplace was not part of the tenancy agreement.

The laundry facilities are a major issue according to the tenant. There are two adjoining houses, each with two units; the house in which she lives has the laundry facility and it is used by both houses but it on the hydro bill for her house. She asks compensation for lack of privacy as she never agreed, or would have agreed, to have a laundry facility that is accessed by persons she does not know. She also said that she is a sole tenant and all 3 of the other units have two tenants and she does not think it fair that an unknown amount of hydro is added to her bill. She confirmed that her unit is private and laundry visitors cannot access her living space. The landlord said the laundry is in a common area. He said they calculated the use of laundry per tenant by using the BC internet access to calculate average use per tenant and have reduced this tenant's house hydro bill accordingly (apparently \$20-\$24 a month per tenancy). The tenant has been served a Notice to End Tenancy for unpaid utilities and has a hearing scheduled to deal with the utility issue.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

Analysis:

The onus of proof is on the tenant applicant to prove on a balance of probabilities that the landlord did not do necessary repairs in a timely fashion contrary to sections 32 and 33 of the Act.

As a large amount of evidence was served late to both the Residential Tenancy Branch and the landlord, I will limit my consideration of it to only those items of which the landlord was informed on the original application. I find her amended monetary order dated December 7, 2014 was too late to consider issues on her pet damage deposit which was added. The issue of the laundry room was not part of her application; I find in any case it is a common area in which privacy is not guaranteed. I dismiss this portion of her claim.

I find the tenant entitled to recover \$45 for her cost of a shower head and \$8 for an overcharge of rent. The landlord agreed to these charges. In respect to the issue of electrical wiring, I find insufficient evidence that the wiring was unsafe or that it affected her daily living in any significant way. Although the tenant said a fireperson said it was unsafe and she called a safety inspector who did a report saying it was "non compliant" in many areas, I find this does not mean it was unsafe or dangerous. I find the landlord had a licensed electrician attend in February 2015 and I find his evidence credible that any problems were fixed to code requirements. Although the tenant did not believe the landlord, she did acknowledge that an electrician attended and fixed some items and the bathroom fan at that time. I find it credible (as the landlord states) that a licensed electrician would not leave dangerous wiring or necessary repairs undone and he would ensure items were done to code. However, she was without a bathroom fan cover for some months (although the fan worked) and I award her \$25 for this minor inconvenience.

The landlord also honestly acknowledged that the tenant was without window coverings for about two months and the tenant said she lacked privacy and had to change etc. in the bathroom. I find her entitled to recover \$50 (\$25 for each month) that she lacked the privacy of window blinds which were noted as missing on her condition inspection report.

The tenant also states she wants window screens. However, I find insufficient evidence that the tenancy included window screens and the landlord said it did not. Therefore I dismiss this portion of her claim.

Regarding the claim for loss of use of a fireplace, I find insufficient evidence that a working fireplace was part of the tenancy agreement. Although the landlord paid to clean it at the tenant's request, I find insufficient evidence that they agreed to provide a

fireplace as part of the tenancy as it was not part of the advertisement or in the agreement.

In respect to her claim for a refund of a hydro charge, I find insufficient information to support her claim. I note she has a future hearing in respect to utilities and hopefully, the parties will submit some bills to support their contentions. I dismiss this portion of her claim with leave to reapply for any utility claims she may have.

An attempt was made to settle this matter but the hydro charges were too big an issue to resolve in a settlement in the hearing as the landlord had no numbers readily available and the tenant wanted to know exactly how much was owed and to see the bills. I encourage the parties to work together with the bills to negotiate a possible agreement on this issue of hydro costs. Other than the amounts set out above, I find the tenant not entitled to a further rebate of monthly rent. I find insufficient evidence to support her allegation that repairs were not done in a timely way. I dismiss these portions of her claim.

Conclusion:

I find the tenant entitled to a monetary award as calculated below. I dismiss all other claims of the tenant but give her leave to reapply on the issue of hydro charges which were not considered in this hearing. No filing fee was involved so none is awarded.

Shower head and overpaid rent reimbursement as agreed	53.00
Bathroom fan without cover for several months	25.00
Lack of privacy due to lack of blinds as agreed for 2 months	50.00
Total amount to tenant	128.00

I HEREBY ORDER THAT the tenant is granted a rebate of rent in the amount of \$128 which she may deduct from her rent.

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: March 04, 2015

Residential Tenancy Branch

