



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This was a hearing with respect to the tenant's application for a monetary award. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing. The landlord acknowledged that she was served with the application and the tenant's documentary evidence. The landlord said that she submitted some evidence by fax several days before the hearing. The evidence has not arrived in the file and it has not been received by the applicant so it will not be considered.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental property is a house in Kamloops. The rental unit is a basement suite in the house with kitchen facilities located in the upstairs portion of the house to be shared with the upstairs occupants, who are the landlord's daughter and family. The tenant testified that the landlord advertised the rental unit on the internet. The tenant inspected the rental unit in July. She was told that work to renovate the unit would be performed. The work included the installation of a bathroom and carpeting throughout.

The tenant testified that she signed a tenancy agreement prepared by the landlord, but she did not provide a copy of the agreement as evidence. The tenant testified that the tenancy was to commence on September 1, 2014. The monthly rent was to be \$700.00 and she paid the landlord the first month's rent and a security deposit of \$350.00. The tenant said that she moved some belongings to the rental property at the end of August; they were placed in a shed on the property. The tenant said that the rental unit was not

ready for occupancy on September 1, 2014. The bathroom was not finished, and the toilet had not been installed. The tenant said that when she inspected the unit on September 4th, there was black mould in the unit and there were dangerous and broken electrical outlets. The tenant submitted photographs of what she said were defects and flaws in the rental unit. The tenant complained as well that she was to share the kitchen and main bathroom with two adults and two children living upstairs, but in fact there were three adults and three children living upstairs.

The tenant said that she notified the landlord that she refused to move into the unsafe premises with her young son. The tenant said that the landlord returned her \$350.00 security deposit, but refused to return the first month's rent of \$700.00. The tenant has claimed the following amounts as compensation:

• September rent:	\$700.00
• Moving expenses:	\$600.00
• Lost wages for two days:	\$475.80
• Filing fee:	\$50.00
Total:	\$1,825.80

The tenant said that she was unable to attend work for two days because she did not have access to her work clothing. The tenant did not submit any documentary evidence to support her claims for moving expenses or for her claim for lost wages.

The landlord testified that she was a new landlord and unfamiliar with all that was involved. She said that the tenant moved her belongings into the rental unit and they remained there until at least September 8th. The landlord said that it took longer than expected, but she did complete all the necessary repairs and renovations. She did not re-rent the unit until November. The landlord said that she did not return the first month's rent to the tenant because the tenant kept her belongings in the rental unit and thereby occupied it for some eight days. She said that she attempted to negotiate a resolution with the tenant, but there was no agreement.

Analysis

Based on the documents and testimony presented, I accept the tenant's evidence that the rental unit was not suitable for occupation when the tenancy was to commence. I find that she was justified in repudiating the tenancy agreement for this reason and that she is therefore entitled to the return of rent for September in the amount of \$700.00. The tenant has not provided any documentary evidence to support her claims for

moving expenses or for lost wages. The tenant said that she did not have her scrub clothing and therefore could not attend work at her nursing job for two days. There is no evidence to support this claim and I am not convinced that the tenant was unable to obtain suitable attire to attend work. These two items of the tenant's claim are dismissed without leave to reapply.

Conclusion

The tenant has been partially successful in her claim. I award her the sum of \$700.00, being the rent paid for September; the remainder of the claims are dismissed without leave to reapply. In light of the divided success, I award the tenant \$25.00 of the \$50.00 filing fee paid for her application, for a total award of \$725.00 and I grant the tenant a monetary order under section 67 in the said amount. This order may be registered in the Small Claims 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: April 10, 2015

Residential Tenancy Branch

