



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0946532 BC Ltd
Boncent Properties Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, MNDC, MNSD, OLC, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for the cost of emergency repairs - Section 67;
2. A Monetary Order for compensation - Section 67;
3. An Order for the return of double the security deposit - Section 38;
4. An Order for the Landlord to comply with the Act – Section 62; and
5. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Tenant entitled to an order for the Landlord’s compliance?

Background and Evidence

The tenancy started on September 1, 2012 and ended on August 30, 2014. Rent of \$1,300.00 was payable monthly and at the outset of the tenancy the Landlord collected \$650.00 as a security deposit. The Parties mutually conducted a move-in condition inspection and completed a report. No move-out inspection was offered or conducted.

The Tenant provided a copy of text messages dated August 31, 2014 between the Landlord and the Tenant indicating that the Landlord received the Tenant's delivered forwarding address. The Tenant states that she sent her forwarding address to the Landlord a few more times with no response from the Landlord until October 2014.

The Landlord states that he received the Tenant's forwarding address sometime in October 2014 and that a meeting after this receipt the Landlord offered to repay the security deposit but the Tenant refused. The Landlord did not make an application to claim against the security deposit.

The Tenant states that the agent appearing at this hearing for the Landlord was not present at the October 2014 meeting and that at this meeting the Tenant asked again for return of the security deposit but the Landlord angrily refused. The Tenant states that after she left the meeting the Landlord informed her by email that they would return the security deposit if the Tenant gave the Landlord information for the Strata. The Tenant claims return of double the security deposit.

The Tenant states that after the first year of the tenancy the bathroom sink backed up and would not drain. The Tenant states that although the Landlord was informed of the problem the Landlord blamed the Tenant for the backup and told the Tenant to "figure it out" on her own. The Tenant states that she called a plumber who determined that the back-up was caused by a structural problem in the building. The Tenant provided copies of text messages to the Landlord repeatedly reporting the sink problem to the end of the tenancy. The Tenant provided a copy of a text message dated June 30, 2014 from the Landlord telling the Tenant to repair the sink herself. The Tenant claims \$400.00 for the cost of the plumber. The Tenant provided two receipts from the plumber dated October 6, 2013 and July 10, 2014. The Tenant states that the sink was not useable after the first year of the tenancy to the end and the Tenant claims a loss of \$2,400.00 or \$400.00 per month for 6 months.

The Landlord states that the sink was inspected by the Landlord but that the Landlord did not know how to fix it. The Landlord states that they did inspect the problem with the sink until after move-out and that by using a camera it was discovered that plastic material had blocked the line. The Landlord states that the line was cleared and that the Landlord sent photos and other information to the Strata asking for reimbursement of the costs as the Landlord believed the Strata to be responsible. The Landlord states that if they are able to get compensation from the Strata they are willing to reimburse the Tenant.

The Tenant withdraws her claim for loss of work.

Analysis

Section 38 of the Act provides that within 15 days after the later of the date the tenancy ends, and the date the landlord receives the tenant's forwarding address in writing, the landlord must repay the security deposit or make an application for dispute resolution claiming against the security deposit. Where a Landlord fails to comply with this section, the landlord must pay the tenant double the amount of the security deposit. Whether the Landlord received the Tenant's evidence at the end of August 2014, which I note is well supported by communication evidence, or sometime in October 2014, as the Landlord failed to return the security deposit and did not make an application to claim against the security deposit, I find that the Landlord must pay the Tenant double the security deposit in the amount of **\$1,300.00**.

Section 32 of the Act provides that a landlord must provide and maintain residential property. Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Based on the evidence of both Parties, in particular the plumbing receipts and the Landlord's evidence of repairs made after the tenancy, I find that the Tenant has substantiated that the sink was plugged due to no fault of the Tenant. As the Landlord had the obligation to maintain the unit, and as the Landlord failed to repair the sink in a timely manner, I find that the Tenant has substantiated a

loss of use. However I find that the amount claimed by the Tenant is excessive in relation to the total rent being paid for the unit. I find therefore that the Tenant is only entitled to a nominal amount of **\$100.00** for the loss of use of the sink. Accepting the Tenant's evidence that the Landlord required the Tenant to inspect and repair a sink that was not damaged by the Tenant, I find that the Tenant has substantiated its claim to **\$400.00** for the cost of the plumber. As the Tenant's application has had merit, I find that the Tenant is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$1,850.00**.

As the tenancy has ended and no evidence was provided in relation to the claim for the Landlord's compliance, I dismiss this claim.

Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$1,850.00**. If necessary, this order may be filed 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: June 04, 2015

Residential Tenancy Branch

