



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0955802 BC LTD. AND COMMUNITY BUILDERS BENEVOLENCE GROUP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP OLC RP PSF

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The tenant applied for an order for the landlord to make emergency repairs for health and safety reasons, for the landlord to comply with the Act, regulation or tenancy agreement, to make general repairs to the unit, site or property and to provide services or facilities required by law.

The tenant and two agents for the landlord (the "agents") attended the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party.

Both parties confirmed they received the evidence package from the other party and had the opportunity to review the evidence prior to the hearing. I find the parties were sufficiently served in accordance with the Act.

Preliminary and Procedural Matters

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application for emergency repairs for health and safety reasons. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request for emergency repairs at this proceeding. The balance of the tenant's applications is dismissed, **with leave to re-apply**.

Issue to be Decided

- Should the landlord be ordered to make emergency repairs for health or safety reasons under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A fixed term tenancy began on August 16, 2012. Monthly rent in the amount of \$425 is due on the first day of each month. A security deposit of \$200 was paid by the tenant at the start of the tenancy.

The tenant's application lists the following items which I have summarized for ease of reference:

Item 1 – Elevators: allegation that the landlord has left the elevators non-operational between Nov 28, 2014 and February 9, 2015, and between May 25, 2015 and June 5, 2015.

Item 2 - Front desk staff: allegation that the landlord removed staff from the front desk in the evening hours between January 2, 2015 and March 15, 2015.

Item 3 - Water temperature: allegation that the landlord has allowed the hot water in the building to stay below bylaw minimal requirements between April 10 and May 25.

At the outset of the hearing, the tenant acknowledged that the elevators in the building referred to in item 1 above are functional as of the day of this hearing. The tenant testified that the hot water referred to in item 3 above has been “re-instated” in the building as of May 28, 2015.

Regarding item 2, the agents stated that in response to the tenant's concerns, the landlord has installed a courtesy phone and that there is a staff person on site in the building 24 hours per day and 7 days per week (hereinafter referred to as “24/7”). The parties agreed that an on-site staff person is not mentioned in the tenancy agreement submitted in evidence. The parties agreed that the on-site staff person is in the building 24/7 but not necessarily at the front desk at all times. The agents stated that when the on-site staff person is responding to calls they would leave a note indicating their estimated time of return to the front desk. The tenant alleged that the on-site staff person deliberately tries to avoid the front desk to avoid dealing with residents.

Analysis

Based on the documentary evidence, the oral testimony, and on the balance of probabilities, I find the following.

Section 33 of the Act covers emergency repairs and states:

Emergency repairs

33 (1) In this section, "**emergency repairs**" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
 - (i) major leaks in pipes or the roof,
 - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
 - (iii) the primary heating system,
 - (iv) damaged or defective locks that give access to a rental unit,
 - (v) the electrical systems, or
 - (vi) in prescribed circumstances, a rental unit or residential property.

[reproduced as written]

Item 1 – Based on the tenant's testimony that as of the date of the hearing the elevators were operational, I dismiss this portion of the tenant's claim due to insufficient evidence. There is no evidence before me that item 1 constitutes an emergency repair at this time.

Item 2 – While I make no finding on whether front desk staff is included in the terms of this tenancy, the parties agree that a front desk staff person is inside the building 24/7. Therefore, I dismiss this portion of the tenant's claim due to insufficient evidence. There is no evidence before me that item 2 constitutes an emergency repair at this time.

Item 3 - Based on the tenant's testimony that as of the date of the hearing the hot water had been "re-instated" in the building, I dismiss this portion of the tenant's claim due to insufficient evidence. There is no evidence before me that item 3 constitutes an emergency repair at this time.

Conclusion

I dismiss the tenant's application due to insufficient evidence. The tenant is at liberty to reapply for the portions of the tenant's application that were severed pursuant to Rule 2.3 of the Rules of Procedure and as described above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: July 17, 2015

Residential Tenancy Branch

