



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPC, OLC, MNDC, LAT, LRE, RR, O, FF

Introduction

This matter dealt with an application by the Tenant to dispute a Notice to End Tenancy, for compensation for loss or damage under the Act, regulations or tenancy agreement, for the Landlord to comply with the Act, regulations or tenancy agreement, for the Tenant to change the locks, to restrict the Landlord's right of enter, for a rent reduction, to recover the filing fee and for other considerations.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on August 5, 2015. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord's absence.

At the start of the conference call the Tenant said he moved out of the unit voluntarily on October 1, 2015, therefore some items on his application do not apply anymore. The Tenant said his requests to dispute the Notice to End Tenancy, for the Landlord to Comply with the Act, regulations or tenancy agreement, to change the locks and to restrict the Landlord's right of entry are now moot points as the tenancy has ended. The Tenant said he is applying for compensation for loss or damage and a rent reduction for loss of facilities.

Issues(s) to be Decided

1. Are there losses or damages to the Tenant and if so how much?
2. Is the Tenant entitled to compensation for loss of damage and if so how much?
3. Is the Tenant entitled to a rent reduction and if so how much?

Background and Evidence

This tenancy started on September 1, 2013 as a month to month tenancy. Rent on the tenancy agreement is \$1,500.00 but the Tenant said the rent was reduced to \$1,400.00 by agreement of the Landlord and Tenant due to heating fuel costs. The Tenant paid a security deposit of \$750.00 on September 1, 2013. The Tenant said a move in

condition inspection report was completed, but no move out condition inspection report was done. The Tenant said they moved out of the unit on October 1, 2015.

The Tenant said he has made this application to recover cost incurred because of the Landlord's actions. The Tenant said he is claiming \$115.50 per month for July, August and September, 2015 for lawn maintenance costs. The Tenant said he had to pay a yard service company to cut the lawn. The Tenant continued to say the tenancy agreement addendum says the Landlord will provide a tractor lawn mower for the Tenant to use. The Tenant said the mower was not provided for July, August and September, 2015 so he had to hire a company to mow the grass. The Tenant provided paid invoices for the lawn cutting service to support his claim.

Further the Tenant said there was a flood in the basement on February 7, 2015 due to a faulty sump pump and piping system. As a result of the flood some of Tenant's belonging were damaged. The Tenant said he had to repair his trend mill exercise machine. The total cost was \$1,569.69 and the Tenant's insurance company paid \$1,369.69 which left the Tenant to pay the deductible of \$200.00. The Tenant said he is requesting to recover his deductible of \$200.00 from the Landlord.

In addition the Tenant said when the flood happened the Landlord was informed about the faulty pump system but the Landlord did not come to the rental unit to see the damage or to fix the sump pump system. The Tenant said he tried to put the pump and pipes back together but he was concerned additional floods would happen. As a result the Tenant moved all his belonging from the basement to the garage for storage. The Tenant said that the garage was fully used with his belongings so he could not use the garage for his car or his shop work. Consequently the Tenant said he is requesting compensation or a rent reduction of \$300.00 per month for the loss of use of the basement/garage. The Tenant said he estimated \$300.00 per month as the basement was half the square footage of the house but it was not finished so he took half the rent for the square footage of \$700.00 and then reduced it to \$300.00 because it was unfinished space. The Tenant said he did not use the basement for fear of flooding from February, 2015 until the end of the tenancy October 1, 2015. The Tenant said the Landlord did nothing to repair the pump system and did not look at the basement when called about it; therefore the Tenant said he is requesting \$300.00 for 8 months for a total of \$2,400.00 in compensation for the loss of use of the basement.

The Tenant also requested to recover the \$50.00 filing fee for this proceeding.

The Tenant said his total claim is as follows:

Lawn mowing	\$ 346.50	
Insurance deductible	\$ 200.00	
Loss of use of basement	\$2,400.00	
Filing Fee	\$ 50.00	
Total		\$2,996.50

Analysis

For a monetary claim for damage of loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or minimized the loss.

The Tenant's first claim is for additional expenses incurred by the Tenant because the Landlord did not provide a lawn mower as stated in the tenancy agreement. I find the Tenant has provided proof the loss existed and he verified the losses by providing receipts for the claim. I accept the Tenant's testimony and evidence that these damages and losses were caused by the Landlord's actions and the costs were reasonable amounts to have the lawn cut. Consequently, I award the Tenant \$346.50 in lawn cutting costs.

Secondly the Tenant has provided the insurance documentation indicating a loss was incurred to the Tenant's trend mill from a flood in the basement of the rental unit. The Tenant is claiming the recovery of the deductible of \$200.00 from the Landlord which the Tenant paid. I accept the Tenant's testimony and evidence and I award the Tenant \$200.00 as compensation to recover the insurance deductible.

Further the Tenant has requested \$300.00 per month for 8 months in the amount of \$2,400.00 for the loss of use of the basement. I accept the Tenant's testimony in the absence of any testimony by the Landlord that the Landlord did not investigate or repair the water pump issues in the basement and therefore the Tenant was justified in having concerns that the basement may flood again at any time. Consequently, I accept the Tenant's testimony that he lost the use of the basement for the period of February, 2015 to October 1, 2015 (the end of the tenancy). I accept the Tenant's calculation of the loss as the basement did make up half the square footage of the house and when the Tenant could not use the basement for storage he moved his belongings to the garage which resulted in losing the use of the garage for car parking and shop use. Consequently, I award the Tenant his claim of \$2,400.00 for loss of use of the basement.

As the Tenant has been successful in this matter, the Tenant is also entitled to recover from the Landlord the \$50.00 filing fee for this proceeding. The Tenant will receive a monetary order for the balance owing as following:

Lawn mowing	\$ 346.50	
Insurance deductible	\$ 200.00	
Loss of use of basement	\$2,400.00	
Filing Fee	\$ 50.00	
Total		\$2,996.50

Conclusion

A Monetary Order in the amount of \$2,996.50 has been issued to the Tenant. A copy of the Order must be served on the Landlord: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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: October 07, 2015

Residential Tenancy Branch

