



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CITY OF VANCOUVER AND ALEXANDER RESIDENCE
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, O, RP, RR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 32; and
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing by conference call and gave affirmed testimony. The landlord confirmed receipt of the tenant's notice of hearing package. Both parties confirmed that no documentary evidence was submitted. I find based upon the uncontested affirmed testimony of both parties that the landlord was properly served with the notice of hearing package as per section 89 and is deemed served under section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

Is the tenant entitled to an order requiring the landlord to comply with the Act, regulation or tenancy agreement?

Is the tenant entitled to an order requiring the landlord to make repairs?

Is the tenant entitled to an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

Neither party has submitted a copy of a tenancy agreement, but both have confirmed that one exists and that the tenant pays \$400.00 per month. Both parties also confirmed that the rental property is a 1920's building.

The tenant states that as part of his tenancy agreement he is entitled to a working refrigerator, a bathroom sink, cabinet doors and a working dresser drawer.

The tenant has provided written submissions which state:

The sink in his bathroom was broken since 2012;
There are no doors on his cabinets;
The tenant does not have a working refrigerator.

The tenant seeks an amended compensation request for a monetary claim of \$900.00 which consists of:

\$500.00	Loss of food due to a broken refrigerator (April 2013(\$150.00), July 2013(\$100.00), April 2014(\$75.00), August 2014(\$75.00) and December 2014(\$100.00))
\$300.00	No sink for 3 years (\$100.00 per year)
\$100.00	No cabinet doors for 1 year.

The tenant stated that over a 3 year period the tenant had verbally notified the landlord's agent (the landlord) of ongoing refrigerator problems. The tenant clarified that on 5 different occasions the tenant had lost perishable foods kept in the refrigerator due to refrigerator failure. The tenant stated that he currently has a small fridge instead of the full sized refrigerator that he began the tenancy with.

The landlord stated that he has recently become the manager as of October 2015 and is not able to provide too much information regarding the tenant's claims on the history of the tenancy. The landlord disputed the tenant's claim stating that there are no particulars of the tenant's monetary claim, specifically details or receipts for the food losses.

The tenant stated that he has been without a sink for approximately 3 years and that the landlord has been repeatedly notified over the same 3 year period. The landlord stated that he is unable to comment on the history of the sink, but was able to confirm that the tenant does not have the use of the bathroom sink. The landlord stated that a request has already been made to replace the sink, but that he is waiting for operations staff to implement the work order. The landlord stated that he has no control over operations staff scheduling.

The tenant stated that he has had no cabinet doors for approximately 3 years and that the landlord was repeatedly notified. The landlord stated that he is unable to comment on the history on the cabinet doors, but was able to confirm that the tenant did not have any cabinet doors. The landlord stated that a request has already been made to install cabinet doors, but

that he is waiting for operations staff to implement the work order. The landlord stated that he has no control over operations staff scheduling.

During the hearing the landlord stated that the tenant's request for repairs is being addressed. The tenant commented that he was reasonable and that as long as the repair work was scheduled to be done in a reasonable period of time that he would be satisfied. The landlord confirmed:

- By December 4, 2015 the delivery of a full size refrigerator to replace the small one temporarily in use.
- By December 18, 2015 the installation of a new bathroom sink.
- By December 31, 2015 the installation of cabinet doors.
- By December 31, 2015 the repair/installation of a dresser drawer.

The tenant also seeks a reduction in rent of \$150.00 per month in the event that the landlord fails to repair/replace the above noted items. The landlord disputed this amount stating that it was "high" in the circumstances.

Analysis

Section 32 of the Act states that a landlord must provide and maintain residential property in a state of decoration and repair that complies with health, safety and housing standards required by law and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 67 of the Act establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the Act, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the tenant to prove on the balance of probabilities that the landlord caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I find based upon the undisputed affirmed testimony of both parties that the tenant has confirmed that he has had refrigerator issues over a 3 year period that resulted in the loss of food on 5 occasions.

The tenant's monetary claim of loss of food of \$500.00 has not been established. The landlord has not disputed that food was lost, but that tenant has not provided any receipts or details of the loss of an actual amount. The tenant was unable to provide any further details on the loss of food. However, I accept the undisputed affirmed testimony of both parties and find that the tenant is entitled to a nominal award of \$125.00 for the loss of food over the 5 different occasions.

The tenant's monetary claim of \$300.00 for the loss of use of a sink for 3 years has been established. The tenant provided undisputed evidence that he did not have a sink for a 3 year period. The landlord did not dispute the tenant's claim and confirmed that the tenant has been without a sink since he began in October 2015. Although the tenant has not provided any details of the \$100.00 in the loss of use of a sink over a 1 year period, I find that this claim is adequate as a bathroom sink is a major part of the bathroom. The tenant is entitled to \$300.00 for the loss of use of a sink for 3 years.

On the tenant's monetary claim of \$100.00 for not having any cabinet doors for the 3 year period or a broke dresser drawer for 1 year, I find that the tenant has established a claim. The landlord did not dispute the tenant's claims and had confirmed that the tenant is without cabinet doors and a working dresser drawer. On this basis, I find that the tenant is entitled to the \$100.00 as claimed.

The tenant has established a total monetary claim of \$525.00. As the tenancy continues, I order that the tenant may deduct from the monthly rent on two occasions, the amount of \$262.50 for January 2016 and again for February 2016 in satisfaction of this claim.

Although the landlord has indicated that he does not foresee any issues in correcting the noted repair issues, paragraph 65(1)(f) of the Act allows me to issue an order to reduce past or future rent by an amount equivalent to a reduction in the value of a tenancy agreement.

Residential Tenancy Policy Guideline, "6. *Right to Quite Enjoyment*" provides me with guidance in determining the amount of the reduction in value. The Policy establishes that I should take into consideration the seriousness of the situation and the length of time over which the situation has persisted.

If the landlord is unable to complete all of the agreed upon repair issues listed:

- By December 4, 2015 the delivery of a full size refrigerator to replace the small one temporarily in use.
- By December 18, 2015 the installation of a new bathroom sink.
- By December 31, 2015 the installation of cabinet doors.

- By December 31, 2015 the repair/installation of a dresser drawer.

In the event that the landlord is unable to complete all of the repair issues, I grant the tenant a rent reduction of \$75.00 per month beginning January 1, 2016 until all repair issues have been completed.

Conclusion

The tenant is successful in his monetary claim of \$525.00. As the tenancy continues the tenant may deduct from the monthly rent on two occasions, the amount of \$262.50 for January 2016 and again for February 2016 in satisfaction of this claim.

I further order that in the event that the landlord does not complete the above listed repair issues by listed dates, that I grant the tenant a rent reduction of \$75.00 per month beginning January 1, 2016 until all repair issues have been completed.

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: November 27, 2015

Residential Tenancy Branch

