



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPILANO PROPERTY MANAGEMENT SERVICES
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, ERP, RP, RR, FF

Introduction

This matter dealt with an application by the Tenant for compensation for loss or damage under the Act, regulations or tenancy agreement, for emergency repairs, for repairs to the unit, site or property, to allow the Tenant to reduce the rent while the repairs or services are being completed or supplied and to recover the filing fee for this proceeding.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on October 2, 2015. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

Issues(s) to be Decided

1. Is there a loss or damage to the Tenants and if so how much?
2. Are the Tenants entitled to compensations for the loss or damage and if so how much?
3. Are there emergency repairs needed?
4. Are general repairs required to the unit, site or property?
5. Are the Tenants entitled to a rent reduction?

Background and Evidence

This tenancy started on December 10, 2014 as a fixed term tenancy with an expiry date of June 30, 2015 and then continued on a month to month basis. Rent is \$745.00 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$372.50 and a pet deposit of \$200.00 on December 9, 2014.

The Tenant said on September 10, 2015 the frig in the rental unit stopped working correctly. The Tenant continued to say he phoned the building manager on September 12, 2015, September 16, 2015, September 26, 2015 and September 28, 2015. As well the Tenant said he wrote to the building manger on September 14, 2015 and made a formal request for repairs that was given to the Landlord on September 30, 2015. The

Tenant continued to say that a repair person came to the rental unit on October 2, 2015 and worked on the frig, but the frig still did not work correctly. The Tenant said he contacted the building manager on October 2, 2015 and October 5, 2015 saying the frig was still not working correctly.

The Tenant said that because the frig was not working correctly they lost food and are now making the following monetary claim against the Landlord:

- Lost food by spoilage because the frig was not working, in the amount of \$64.13.
- For inconvenience and additional expenses due to the loss of use of the frig from September 10, to October 10, 2015 in the amount of \$200.00 (the Tenant said the frig is still not working correctly and he is increasing his claim to December 8, 2015, the hearing date in the amount of \$50.00 per week.)
- To recover the cost of USB drives for the hearing in the amount of \$40.29.
- To recover the filing fee of \$50.00.

The Tenant said their total amended claim is \$354.42 on the application plus 8 weeks @ \$50.00 per week for loss of use of the frig, up to December 8, 2015 in the amount of \$400.00.

The Tenant provided receipts for the food purchases and indicated which foods spoiled, audio evidence of conversations with the building manager M.B. about the frig and copies of emails to support their claims that the frig was not working correctly.

The Landlord said that they sent a repair man to the rental unit on October 2, 2015 which was 2 days after receiving the Tenants' formal written request for repairs. The Landlord said the frig was repaired and the Landlord provided a copy of the paid invoice from the repair man. The invoice explains the repairs made and indicates the frig is operating within an acceptable range. The other building manager G.R. said she was in the unit on October 5, 2015 and the frig was operating correctly. The Landlord said they responded quickly to the Tenants' request for repairs and the frig is now working correctly therefore they are requesting the Tenants' application be dismissed.

The Tenant said the frig is not working correctly and the repairs did not fix the problem.

The building manager G.R. said they have not had any additional complaints or requests from the Tenant about the frig not working since the repairs were completed on October 2, 2015.

The Tenant said he has not complained because the Landlord issued an eviction notice and a letter to him and threatening him with an eviction because of his behaviour. The Tenant said he was scared to complain any more.

The Landlord said the Notice to End Tenancy was for unpaid rent and the letter was about the Tenants behaviour. The Landlord said it is standard procedure to issue Notices to End Tenancy when the rent is not paid.

The Tenant said he has given his notice to move out of the unit on December 31, 2015 so the tenancy is ending. The Tenant said he would like to be compensated for his losses.

The Landlord said they acted in a responsible manner repairing the frig following a formal written request and therefore they are requesting the Tenants' application be dismissed.

Analysis

Section 32 of the Act says a Landlord must provide and maintain residential property in a state of decoration and repair that makes it suitable for occupation by a tenant. Therefore a Landlord is obligated to repair items included in the tenancy agreement.

In this situation the refrigerator is listed in the items included in the tenancy agreement. Therefore the Landlord is obligated to provide a working refrigerator. The Tenant and the Landlord both agree the refrigerator was not working and that it needed to be repaired or replaced. The Landlord said the refrigerator was repaired after the Tenant made a formal written request on September 30, 2015. The Tenant said the Landlord knew about the refrigerator not working on September 12, 2015, 21 days before it was repaired and the Tenant said the repairs did not work. The Tenant said because the refrigerator was not working correctly and the Landlord did not repair it in a timely manner the Tenants lost food to the value of \$64.13. I accept the Tenant testimony that the Landlord knew the refrigerator was not working on September 12, 2015 and the Landlord did not take action until October 2, 2015. I find the Landlord did not meet his obligation to provide a working refrigerator to the Tenant and did not correct the issue in a timely manner. Consequently I award the Tenant \$64.13 in compensation for spoiled food and \$50.00 for the inconvenience caused by the loss of the refrigerator from September 12, 2015 to October 2, 2015.

Further I find the Landlord did take action to repair the refrigerator on October 2, 2015 and I accept the Landlords testimony that they received no additional complaints about the refrigerator; therefore they believed the repairs were successful. I dismiss the Tenants' claim for compensation for time after the repairs were completed on October 2, 2015 as the Tenant did not communicate a problem with the refrigerator to the Landlord after the repairs were completed.

With regard to the Tenants' claim for reimbursement of the USB drives for the hearing. The costs of preparing for the hearing are not eligible claims under the Act; therefore I dismiss the Tenants' claim of \$40.29 for USB expenses.

Further as I have accepted that the refrigerator was been repaired and the tenancy is ending December 31, 2015; therefore I dismiss the Tenants' request for emergency repairs, for general repairs and for a rent reduction while repairs are being completed.

As the Tenant has been partially successful in this matter I order the Tenant to recover the \$50.00 filing fee from the Landlord.

The Tenant has received a monetary Order as follows:

Compensation for lost food stuffs	\$64.13
Compensation for inconvenience of lost use of the frig	\$50.00
Recover filing fee	\$50.00
Total	\$164.13

Conclusion

A monetary order in the amount of \$164.13 has been issued to the Tenants.

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: December 08, 2015

Residential Tenancy Branch

