



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNC, FF, LRE, MNDC OLC, PSF, RP, RR

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order disputing an additional rent increase.
- b. An order for repairs and/or emergency repairs.
- c. A monetary order in the sum of \$1500
- d. An order to suspend or set conditions on the landlord's right to enter the rental unit.
- e. An order for the reduction of rent for repairs, services, or facilities agreed upon but not provided
- f. An order to recover the cost of the filing fee?

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was personally served on the landlord on May 12, 2016.

Preliminary Matter:

The tenant sought an order disputing an additional rent increase. The tenant testified the landlord has increased the rent a number of times without giving him the Notice to Rent Increases required by the Residential Tenancy Act. The tenant relies on rent receipts in assessing these rent increases. Unfortunately the tenant failed to provide the landlord with copies of this rent increases. The landlord states that any rent increases were given in accordance with fixed term tenancy agreements. The landlord failed to provide the Branch with copies of these fixed term tenancy agreements.

I determined it was not possible to make a determination of this claim on the merits as both parties failed to provide the Branch with relevant evidence. I ordered this claim be severed. The tenant retains the right to file a new application seeking compensation for any rent increase that was improperly obtained. The parties are referred to Policy Guideline #37 for assistance including the following:

“Tenant May Agree to a Rent Increase Greater than the Prescribed Amount

A landlord who desires to increase a tenant's rent by more than the amount of the allowed annual rent increase can ask the tenant to agree to an increase that is greater than that allowed amount. If the tenant agrees in writing to the proposed increase, the landlord is not required to apply to an arbitrator for approval of that rent increase. The landlord must still follow requirements regarding the timing and notice of rent increases.

The tenant's written agreement to a proposed rent increase must clearly set out the agreed rent increase (for example, the percentage increase and the amount in dollars), and the tenant's agreement to that increase. It is recommended the landlord attach a copy of the agreement to the Notice of Rent Increase given to the tenant.

Payment of a rent increase in an amount more than the allowed annual increase does not constitute a written agreement to a rent increase in that amount.”

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order for repairs and/or emergency repairs.
- b. Whether the tenant is entitled to a monetary order in the sum of \$1500
- c. Whether the tenant is entitled to an order to suspend or set conditions on the landlord's right to enter the rental unit.
- d. Whether the tenant is entitled to an order that the landlord provide services or facilities required by the tenancy agreement or law.
- e. Whether the tenant is entitled to an order for the reduction of rent for repairs, services, or facilities agreed upon but not provided
- f. Whether the tenant is entitled to an order to recover the cost of the filing fee?

Background and Evidence

The tenancy began on March 1, 2000. The present rent is \$700 per month payable in advance on the first day of each month. The tenant paid a security deposit of \$237.50 on February 22, 2000.

The tenant testified as follows:

- He has been without an oven for the entire time of the tenancy. The four elements on the stove no longer work.
- The floor in the kitchen area has a soft spot and is in need of repair.
- There is a leak under the sink that is in need of repair.
- The stove is hard wired. This is a danger and he requests that an electrician who is certified to work in B.C put install the wiring and that the stove be replaced.
- He is content to have a second hand replacement stove.

The landlord testified as follows:

- The tenant has told the landlord on many occasions including April 22, 2016 that he does not need a stove and that he is content to use his toaster oven and microwave
- The tenant is abusive and belligerent with the staff when they come in to do the repairs.
- The hole in the wall is not visible.
- The tenant has been a smoker all his life and has failed to properly maintain his rental unit.
- The rental unit has been rented to him below market value.

Application for a Repair Order

Analysis

I determined that the oven has not worked for a lengthy period of time and that the stove is a safety hazard. Policy Guideline #40 provides that the expected life of a stove is 15 years. This stove is past its expected life and not functioning. I ordered that the landlord replace the stove and employ the services of an electrician licenced to operate in British Columbia to install the wiring to complete the installation. I am satisfied the floor near the sink is soft and needs attending to. I ordered that the hole in the wall be repaired.

In summary I ordered the landlord to do the following:

- a. Replace the stove and employ the services of an electrician licenced to operate in British Columbia to install the wiring to complete the installation
- b. Repair the floor in the kitchen

c. Repair the hole in the wall

I further order that the repairs be complete by July 15, 2016.

Monetary Order:

The tenant sought compensation in the sum of \$100 per month for 6 months for the reduced value of the tenancy. The landlord disputes this claim stating the tenant failed to advise them of the problem. The tenant failed to provide letters to the landlord or any other evidence that indicates that he has advised the landlord of the repair issues and asking for the repairs. The tenant did not dispute the landlord's testimony that he told the landlord on April 22, 2016 that he did not need the oven and was content to use his toaster oven and micro-wave. I agree with the submission of the landlord that the tenant cannot on one hand assure the landlord he does not need the repair and the later file a claim for monetary compensation for the failure to make the repair for the period of time he told the landlord he did not need the repair.

However, the landlord was served with the Application for Dispute Resolution on May 12, 2016. At that stage it was apparent that the tenant was seeking a repair order and compensation. A reasonable landlord would have responded within 8 days.

The landlord failed to take steps to make the repairs and delayed responding until the hearing. I determined the tenant is entitled to compensation in the sum of \$75 for the reduced value of the tenancy for the period from May 20, 2016 to June 20, 2016.

Reduction of Rent

I dismissed the tenant's application for the reduction of future rent if the landlord fails to comply with the repair order. The requested repairs are not large. There is insufficient evidence that the landlord will fail to comply with this order. If the landlord fails to make the repairs as provided above the tenant has liberty to re-apply.

I dismissed the claim of the Tenant to suspend or set conditions on the landlord's right to enter the rental unit as the tenant failed to present sufficient evidence that the landlord is improperly entering the rental unit.

Conclusion

I issued a repair order. **I ordered the landlord(s) to pay to the tenant the sum of \$75 plus the sum of \$100 in respect of the filing fee for a total of \$175.**

The tenant is at liberty to deduct this sum from future rent. If the tenant is not able to reduce his rent payment to collect the \$175, a monetary order has been issued to the Tenant.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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 25, 2016

Residential Tenancy Branch