



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDC

Introduction

This hearing was convened by way of conference call in response to the tenant's application for an Order to cancel a 10 Day Notice to End Tenancy for unpaid rent or utilities and for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement. This hearing was scheduled to hear an application by the landlord along with the tenant's application. It was determined after the hearing that the landlord had cancelled his application before the hearing commenced.

The tenant advised that she vacated the rental unit on October 15, 2016 and therefore withdraws her application to cancel the Notice to End Tenancy for unpaid rent or utilities.

The tenant originally filed her application on October 07, 2016 and amended her application on October 14, 2016. Service of the hearing documents and the amended application, by the tenant to the landlord, was done in accordance with section 89 of the *Act*; served in person on October 10, and October 17, 2016.

The tenant appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?

Background and Evidence

The tenant testified that her month to month tenancy started on May 05, 2013. Rent was \$650.00 per month due on the 1st of each month. The tenancy ended on October 15, 2016 after the landlord was granted an Order of Possession because the landlord had received an Order from the city to evict the tenant because this was an illegal suite.

The tenant testified that she did not have a written tenancy agreement and this was a verbal agreement between the parties. As part of that agreement the landlord told the tenant that she could use the crawl space for storage. The tenant had a lot of storage items due to the estate of her parents and she needed this storage space. The landlord then turned this crawl space into an office space for his wife and the tenant was denied storage space and had to rent a storage locker instead. The tenant testified that she believed she was only entitled to claim the last three months storage costs due to the Limitation Act limiting her claim beyond two years. The tenant has provided documentary evidence showing she paid \$98.70 per month and although she has been paying this amount each month since April 11, 2013 the tenant has only applied for these costs for October, November and December, 2014 to a total amount of \$296.10.

The tenant testified that almost from the start of her tenancy in May, 2013 she suffered with a mouse infestation. The landlord was informed of this and he did send in a pest control company around January, 2014 who put down sticky traps and poison; however, this did not remedy the problem. The landlord had to keep coming into the unit to dispose of the mice caught in the traps so was fully aware of the problem. The pest control company came back twice more around a year later but they did not investigate where the mice were coming in they just put more traps and poison down. The tenant

testified that she had mouse urine and feces all over her unit which was a health hazard. The landlord only provided two glue boards for the tenant over the four year tenancy. In the end the tenant started to purchase the glue boards to catch the mice herself and purchased a total of 72 glue beads. Some were purchased at 2.00 for a pack of three and others ranged between \$0.99 and \$1.49. The tenant's advocate testified that she averaged out the costs as the tenant did not keep all her receipts. They came to a figure of \$174.96 for the glue boards and the tenant seeks to recover this from the landlord.

The tenant testified that she also suffered with maggots and millipedes both inside and outside her unit. The tenant does not know what caused this infestation but it started when the landlord started some construction work in his garage and he stored his garage stuff outside the tenant's unit. The tenant testified that she informed the landlord of the problem and was told not to worry because they were outside. The tenant then started to notice that they had started to crawl inside her unit because the landlord had not replaced the weather strip on the front door. The tenant referred to her photographic evidence showing maggots and millipedes both inside and outside her unit

The tenant testified that the maggots were also outside in the same area. The garbage bins were supposed to be stored in the alleyway but the landlord brought them around and they were then kept by the tenant's front door. There were two bins and 11 people shared these on the property. The bins had maggots in them and these also started to crawl into the tenant's unit. The landlord was also informed of this problem but did nothing to rectify it. The landlord did bring in a pest control company and they did spray outside and inside the tenant's unit but the millipedes and the maggots returned two and half days later and remained for the rest of the tenancy. The tenant decided to deal with the problem and purchased six cans of one shot bug spray. The tenant agreed she did not save her receipts for these sprays but testified that each can cost between \$8.99 and \$11.99 plus tax. The tenant seeks to recover the cost for this spray of \$60.42 from the landlord.

Analysis

The landlord did not appear at the hearing to dispute the tenant's claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenant's undisputed evidence before me.

With regard to the tenant's claim to recover storage costs, I am satisfied from the undisputed evidence before me that the parties had a verbal agreement that the tenant could use the crawl space as storage. I am also satisfied that the landlord removed this facility and the tenant had to seek storage elsewhere. However, even though the tenant did pay for storage throughout her tenancy the tenant could have mitigated the loss by filing an application seeking an Order for the landlord to reinstate her storage or reduce her rent accordingly. As the tenant failed to do this in a timely manner I find the tenant did not mitigate the loss and therefore I must limit the tenant's claim to the amount on her application for three months of storage costs to the amount of **\$296.10**.

With regard to the tenant's claim for the cost of 72 mouse glue pads and for the six cans of one shot bug spray purchased; I am satisfied that the landlord was made fully aware of the issues the tenant was experiencing with mice, maggots and millipedes and that the landlord did send in a pest control company to attempt to control or eradicate these problems; however, this was unsuccessful and the mice problem continued for duration of the tenancy and the maggots and millipedes returned a few days after treatment. I am not satisfied that the tenant has sufficient evidence to show she purchased 72 glue pads or six cans of spray or the actual amount spent on the glue pads and spray. As the tenant has the burden of proof in this matter I find I must limit the tenant's claim to **\$100.00** for the glue pads and **\$40.00** for the spray.

Conclusion

I HEREBY FIND in partial favor of the tenant's monetary claim. A copy of the tenant's decision will be accompanied by a Monetary Order for **\$436.10** pursuant to s. 67 of the

Act. The Order must be served on the landlord. Should the landlord fail to comply with the Order the Order may be enforced through the Provincial (Small Claims) Court of British Columbia 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: December 01, 2016

Residential Tenancy Branch