



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, ERP, RP, RR, O

Introduction

This hearing convened as a result of the Tenant's Application for Dispute Resolution wherein the Tenant requested an Order that the Landlord make repairs, emergency and otherwise, to the rental unit, a Monetary Order for money owed or compensation for loss under the *Residential Tenancy Act*, the *Residential Tenancy Regulation*, or the tenancy agreement, authority to deduce the cost of facilities from the rent and other unspecified relief.

The hearing was conducted by teleconference on March 15, 2017. Both parties called into the hearing and were given a full opportunity to be heard, to present their affirmed testimony, to present their evidence orally and in written and documentary form, and make submissions to me.

The Landlord stated that she had submitted evidence to the Branch the week prior to the hearing. The Tenant stated that evidence was provided to her the day before the hearing. That evidence was not before me and not considered in this my Decision as it was not submitted to the Branch, or served on the Tenant in accordance with the *Residential Tenancy Branch Rules of Procedure*. Aside from this evidence no issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Should the Landlord be ordered to make repairs, emergency and otherwise?
2. Is the Tenant entitled to monetary compensation from the Landlord?
3. Should the Tenant be entitled to reduce her rent for facilities agreed upon but not provided?

Background and Evidence

The Tenant testified as follows. She stated that the tenancy began December 14, 2016. She confirmed that the rental unit is a single room, and she shares the kitchen and bathroom with another renter. Her monthly rent is \$500.00 per month.

The confirmed that the repairs that she is seeking are as follows.

She stated that the door to the exterior of the suite is bent and twisted and the Tenant can see outside and the cold air comes in. Photos of the door suggest the door may have been kicked in on the bottom. She confirmed that the door locks but allows a significant amount of cold air to come into the rental unit. She further confirmed that she has asked the Landlord to repair the door.

The Tenant also stated that the heat in the rental unit is inadequate. She testified that the rental unit is heated by space heaters alone and to her knowledge does not have central heating. She stated that the Landlord has provided five different heaters to her during the tenancy to try to address the heating issues. She stated that aside from the most recent heater, which was provided on February 12, 2017, all of the heaters have inadequately heated the rental unit, and on January 20, 2016⁷ one of the heaters burned the electrical power-bar. The Tenant provided photos of the heaters in evidence as well as the burned power bar. The Tenant further stated that prior to February 12, 2017, the date the functioning heater was provided, the Landlord told her to simply "bundle up" or just "try to ignore it".

The Tenant further stated that there are no visible smoke detectors in the rental unit and that when the heater burned the power bar no alarm went off. She seeks an Order that the Landlord install smoke detectors.

The Tenant confirmed that the electricity is included in the rent.

The Tenant sought compensation in the amount of \$500.00 as compensation for insufficient heat in the rental unit from December 14, 2016 to February 12, 2017, issues related to the door, as well as a broken window in the room in which she sleeps, which she says was only replaced on January 26, 2017.

The Tenant also sought the sum of \$97.65 for cleaning of the rental unit when she moved in. She stated that this sum represented 9 hours of her time cleaning at minimum wage (\$10.85 per hour). In support she provided in evidence before and after photos of the rental unit. The Tenant further stated that the Landlord has not compensated her for her time; she claims that she also had to clean up mouse droppings in her bedroom cupboard and when he spoke to the Landlord about this the Landlord simply replied "oh I guess the cleaners must have missed that". The Tenant stated that based on the Landlord's response she felt the Landlord would not compensate her for cleaning the kitchen, bathroom and other common areas.

The Landlord testified as follows.

In response to the Tenant's request that the Landlord replace the door, the Landlord testified that she has a replacement door, but has not been able to have it installed as the person who was supposed to install the door was "snowed in" in another community some distance from the rental unit and that when he returned he contracted the flu.

The Landlord stated that there are smoke detectors in the rental unit in an area she described as a "loft". She stated that the batteries were changed six months ago.

The Landlord confirmed that there is no central heating in the rental unit. She stated that the suite was "not to be rented" and that she is only renting it as the Tenant and the other renter were "desperate" as they could not find a place to live.

In response to the Tenant's request for \$500.00 for inadequate heating, the Landlord stated that she would not provide the Tenant with any compensation as she "did her best" to provide additional heaters. She also stated that it was exceptionally cold this winter and as a result many other people had a hard time keeping their homes warm. The Landlord also stated that the other renter never complained.

In response to the Tenant's request for cleaning of the rental unit, the Landlord stated that she had no idea when the photos were taken and suspected that they were taken by the Tenant's friend at some time before the tenancy began. She further stated that she hired cleaners who cleaned the rental unit for four hours. She also claimed she, the other renter, and a friend cleaned the rental unit when she "got talked into renting the rental unit". In all, she stated that the rental unit was clean and not as depicted in the "before" photos.

The Landlord also stated that she intends to issue a notice to end tenancy for the end of August 2017 as she does not wish to have renters.

In reply, the Tenant denied the Landlord's suggestion that she took photos prior to the rental unit being cleaned. She reiterated that the rental unit was as depicted in the photos submitted in evidence and that she cleaned the rental unit to the condition depicted in the after photos.

Analysis

The full text of the *Residential Tenancy Act, Regulation*, and Residential Tenancy Policy Guidelines, can be accessed via the website: www.gov.bc.ca/landlordtenant.

After consideration of the evidence before me and the submissions of the parties, I find as follows.

Section 32 of the *Act* mandates the Tenant's and Landlord's obligations in respect of repairs to the rental unit and reads as follows:

Landlord and tenant obligations to repair and maintain

- 32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that
- (a) complies with the health, safety and housing standards required by law, and
 - (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.
- (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.
- (3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.
- (4) A tenant is not required to make repairs for reasonable wear and tear.
- (5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

The *Residential Tenancy Act Regulation – Schedule: Repairs* provides further instruction to the Landlord as follows:

- 8** (1) Landlord's obligations:
- (a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a tenant. The landlord must comply with health, safety and housing standards required by law.
 - (b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

The above requires a landlord to make repairs when a Tenant's request for repairs is to ensure reasonable aesthetics, reasonable functioning or lawful compliance with health, safety and housing standards.

Based on the photographic evidence before me, and the Tenant's submissions, I find the Tenant's claim for replacement of the exterior door is not unreasonable given its current state.

I also accept the Tenant's evidence that if there are smoke detectors in the rental unit as claimed by the Landlord, they are not functioning.

In consideration of the foregoing, I Order pursuant to sections 32 and 33 as follows:

1. By no later than March 22, 2017, the Landlord must replace the exterior door.
2. By no later than March 24, 2017, the Landlord must hire a qualified electrician to attend the rental unit and assess and report on the location and functionality of the smoke detectors as well as to ensure the location of the smoke detectors complies with health, safety and housing standards required by law. The Landlord must request that the electrician provide written recommendations in this regard and the Landlord must also provide a copy of those recommendations to the Tenant as and when received. The Landlord must also take whatever steps are recommended by the electrician with respect to the smoke detectors within seven days of those recommendations being received by the Landlord.

If the Landlord does not comply with the above, the Tenant may apply for further compensation by way of section 67 or section 65(1) of the *Residential Tenancy Act*.

I accept the Tenant's evidence that the rental unit has an inadequate heating system. While the Landlord may not have intended to rent the rental unit, a tenancy exists. The Landlord accepts rent from the Tenant and the other renter and therefore has an obligation to ensure the rental property is suitable for occupation. I accept the Tenant's evidence that the space heaters provided by the Landlord failed to provide adequate heat.

I further find that the Landlord did not repair the exterior door in a timely fashion. The Landlord confirmed she had a replacement door, but was waiting for a particular person to install this door. In failing to address this in a timely fashion the Landlord has contributed to the heating issues, and failed to abide by section 32 of the *Act* and section 8 of the *Regulations* as reproduced above.

I find the Tenant is entitled to the **\$500.00** claimed as compensation for inadequate heating of the rental unit as well as the Landlord's delay in installing an appropriate exterior door.

I accept the Tenant's evidence with respect to the condition of the rental when she moved in; the photos submitted in evidence by the Tenant clearly show the rental unit in a state requiring significant cleaning and I accept her testimony that she took these photos *after* she moved into the premises. I therefore award the Tenant the **\$97.65** claimed for nine hours of cleaning at minimum wage. I note that this is well below the amounts charged by professional cleaners and less than that which is normally awarded to Landlords for hourly cleaning costs when tenancies end.

Conclusion

The Tenant's application for an Order that the Landlord make repairs pursuant to sections 32 and 33 is granted.

The Landlord must replace the exterior door by no later than March 22, 2017. She must also, by no later than March 24, 2017, hire an electrician to attend the rental unit and assess and report on the fire extinguishers. The Landlord also must attend to the electrician's recommended steps by no later than seven days after receipt of the electrician's report.

The Tenant is entitled to the sum of **\$597.65** as compensation for inadequate heating of the rental unit, the Landlord's delay in replacing the exterior door, and the Tenant's time cleaning the rental unit. Pursuant to sections 67 and 72(2)(a) the Tenant is to be credited this sum towards any rent owing.

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: March 17, 2017

Residential Tenancy Branch