



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ASSOCIATED PROPERTY MANAGEMENT (2001)
LTD. and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

For the Landlord: OPRM-DR, FFL
For the Tenant: CNR, LRE, PSF

Introduction

The Applicant, Tenant J.K., requested a correction to a Decision of the Residential Tenancy Branch ("RTB") dated December 6, 2019. The original hearing dealt with cross applications for Dispute Resolution under the *Residential Tenancy Act* ("Act") by the Parties, as follows:

The Landlord filed a claim for:

- an order of possession, further to having served the Tenants with a 10 Day Notice to End the tenancy for Unpaid rent of \$942.06 ("10 Day Notice");
- recovery unpaid rent of \$692.06; and
- recovery of their \$100.00 Application filing fee.

The Tenants filed a claim:

- to cancel the 10 Day Notice;
- to suspend or restrict the Landlord's right to enter; and
- for an order for the Landlord to provide services or facilities required by the tenancy agreement or law.

Section 78 of the Act enables the RTB to correct typographic, grammatical, arithmetic or other similar errors in a decision or order, or deal with an obvious error or inadvertent omission in a decision or order.

In her request for corrections, the Tenant directed my attention to documentary evidence that she had not addressed during the hearing, such as rent receipts. At the

onset of the hearing, as noted in my original Decision, I stated:

...pursuant to Rule [of Procedure] 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

The following sets out:

- the findings in my original Decision, which the Tenant says are incorrect;
- the Tenant's requested correction(s);
- the relevant documentary evidence submitted and/or testimony I recorded during the hearing, and
- my findings on the requested corrections.

ISSUE ONE:

Questioned Statement in Decision:

The Parties agreed that the Tenants did not pay rent in full on August 1, 2019, when it was due. Rather, the Tenant, J.K., agreed that they paid the Landlord with two cheques in the amounts of \$71.22 and 521.24 on August 6, 2019 and August 15, 2019, respectively, for a total of \$592.46.

The Tenant, J.K., requests this be corrected, stating:

I never agreed to paying rent with a cheque in the amount of \$71.22 on Aug. 6th, 2019. When I was asked to respond to this, I said I was confused about where this cheque came from and my rent receipts which were sent in for evidence do not show a cheque in that amount but there was a receipt #392135 dated Aug. 1st for the amount of 1,113,72 which covers my whole rent for the month of Aug. 2019.

[reproduced as written]

In the hearing, I typed the Parties' testimony into my computer as they said it. As such, I am faced with the Tenant's memory of what she said happened, in contrast to my typed notes of what the Parties said at the time. My typed notes of this matter are as follows:

[Property Manager]:

Started managing property on May 6. [S.C.] was the original property manager. Tenant had her email, phone number, etc. and [S.C.] let me know a little bit about

the history. No emergency flood. But the Tenants had just put the flooring in. I am not aware of any flood. I never got any phone calls.

I send out notices to all my tenants, where they can contact me. No emergency number posted in the rental unit.

The Tenants paid with 2 cheques both on August 6: \$71.22 and \$521.24.

Sept. paid \$1,042.50 on September 1

Charged us \$500 for a new stove, no permission for that.

Tenant:

August – took off the cost of the repairs she authorized for the repairs, after the flood happened. Couldn't get hold of her on the weekend. Explained to her, she saw [P.K.] putting the flooring down. She said that was fine, to send her an invoice, deduct it from rent in unit 2.

When [SC] was there, she authorized the stove, bring in the receipt and deduct that from her rent in #2. Replaced in Jan or Feb, has nothing to do with the flood.

The carpet before the flood happened was horrible, so when [Agent] was saying we shouldn't have replaced . . . it was horrible from tenants before. It was mouldy. We had some flooring that was donated by my father. Get as much done in order to make it better. . .

[Property manager] agreed to it at the time, but later said it would not be authorized.

I agree that the Tenant acknowledged that the property manager authorized the Tenants to reduce the rent in the second unit by the amount of the flooring repairs; however, the evidence before me is that the Tenants reduced the first payment of rent for August 2019 by the amount of the repairs they claimed. Further, the amounts quoted in the questioned part of my original Decision add up to the monthly rent owing by the Tenants, as follows:

(\$450.04)	- flooring repair deduction,
<u>71.22</u>	-remaining rent owing for first half of month,
\$521.26	
<u>+\$521.24</u>	-second half of Aug rent paid on 15 th ;
<u>\$1,042.50</u>	→ equates to the monthly rent owing;
	→ also consistent with Tenant's stated habit of paying biweekly.

I find that whether the Tenant agreed to having paid these cheques or not, is of limited relevance to my findings, based on the evidence before me as a whole. I find that these amounts are consistent with the rest of the evidence to which I was directed during the hearing, and I stand by the Decision in this regard. I find there is insufficient evidence before me to warrant the requested correction, as I find it would have no effect on the ultimate Decision. I decline to make this requested correction.

ISSUE TWO:

Questioned Statement in Decision:

The Tenant said that they replaced the flooring at their own cost, but deducted this amount from their August 2019 rent. She said the Agent told the other Tenant, P.K., that 'it was okay to do what we did and to send in an invoice and take it off the rent.'

The Tenant, J.K., requests this be corrected, stating:

2nd statement is also falsely stating that I said this when I did not. I did say that the agent gave permission for rent money to be deducted from the tenants rent in unit number 2 because this is where the flooring was replaced due to a flood on an emergency basis.

This requested correction is not significantly different than the first issue. I agree that the Tenant, J.K., said that the Property Manager told the Tenants to deduct the cost of the repairs from the other unit's rent; however, I found that the rest of the evidence to which I was directed during the hearing indicated that the Tenants had deducted \$450.04 from their own unit's August 2019 rent, because they were the ones doing the repairs and providing the flooring to the other unit. Again, I find that based on the evidence before me overall, the statements in my original Decision accurately represent the testimony and documentary evidence before me at the time. I decline to make this requested correction.

ISSUE THREE:

Questioned Statement in Decision:

The Tenant insisted that this is what happened. She said they used flooring her father had donated, and they deducted the cost of flooring they installed in the

adjacent suite for \$450.04.

The Tenant, J.K., requests this be corrected, stating:

3rd statement is also not something I said except the part about using the flooring material that was donated by my father.

The Tenant also highlighted a section of the Decision related to this with a number “4” beside it; however, she did not specifically comment on the fourth highlighted portion.

The fourth questioned portion of the Decision:

The Agent explained that the Tenants paid insufficient rent in June 2019, as well, saying that they had been short by \$492.02 that month. Therefore, the Agent noted that when the Tenants were short by \$450.04 in August 2019, the total unpaid rent at that point grew to \$942.06.

I note the Tenants’ evidence includes an email from Tenant, P.K., to the property manager dated August 1, 2019, states:

Vinyl plank flooring material and installation at unit 2, 1151 Lewis Rd., Kelowna, BC. Installed by [P.K.]

Total Cost: \$450.00.

I find that this equates to an invoice for the work the Tenants did on the other rental unit, following an alleged flood. This is consistent with the findings in my Decision.

My typed notes of this matter are as follows:

Tenant

Just deducted \$450 for the flooring that was done from our August rent. Also, for the first and the 15th – paying the ladies; next door from my account.

When [Property Manager] came it was for an inspection of the suite next door.

Didn’t get permission before putting the flooring down. Continuing doing the renos. . . [P.K.] is a floor installer and has installed flooring in our unit before and never an issue with the [Owners]. Vinyl plank on floors in the living room a few

years before.

Another portion of my original Decision that I find relevant:

I find there is insufficient evidence before me that the Tenants had a right to deduct a portion of the rent owing in August 2019. Further, I find that the Landlord's son's testimony raises questions in my mind about the reliability of the Tenant's version of events involving the flood. I find it more likely than not that the flood did not happen. I find the Tenants installed flooring, which the Tenant, J.K., said was donated by her father, and then charged the Landlords for this unauthorized work via an unauthorized reduction in their rent.

I hold to my position that the Tenants' version of events is questionable; similarly, I find my notes typed during the hearing are more reliable than is the Tenant's memory of what she said that day. I decline to make any of the Tenant's requested corrections, and I confirm my original Decision and Order.

This Decision is final and binding on the Parties, unless otherwise provided under the Act, and 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 31, 2019

Residential Tenancy Branch