



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Kitsalano Management and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, FF

Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons; and
- recovery of the filing fee.

The tenant attended the hearing; however, no one attended for the landlord.

The tenant stated she served the landlord with her Application for Dispute Resolution, evidence, and Notice of Hearing (application package) by registered mail on October 3, 2020. The tenant provided the Canada Post Tracking Number to confirm this mailing. That number is listed on the style of cause page in this Decision.

I accept the tenant's evidence that the landlord was served notice of this hearing in a manner complying with section 89(1) of the Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her evidence orally and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the submissions are reproduced here; further, only the evidence specifically relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters -

In reviewing the tenant's application, it appeared the landlord's company name may have a different spelling. The tenant confirmed one letter in the first word was different. As a result, I have amended the tenant's application to reflect the correct spelling.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons and recovery of the filing fee?

Background and Evidence

The tenant submitted a copy of a document she entitled "rental agreement", which was submitted as a tenancy agreement.

In response to my inquiry, the tenant submitted that the tenancy began approximately two years ago and the beginning monthly rent was \$875.

The tenant submitted that she currently pays \$932.75, although her monthly rent was due to increase in December 2020, by way of a notice of a rent increase issued by the landlord to the tenant.

The tenant said that was compelled to file this application on September 30, 2020, due to the landlord's failure to repair her broken bedroom window, despite many months of requests. The tenant said that the landlord finally repaired the window two days prior to the hearing.

The tenant submitted copies of the written requests, after months of verbal requests.

The tenant requested her filing fee as the landlord did not make the repairs until she filed her application, and only two days prior to the hearing.

Analysis

Based upon the relevant evidence and a balance of probabilities, I make the following findings:

As the landlord failed to attend the hearing, I consider the tenant's application unopposed.

Section 32 of the *Act* requires that a landlord must provide and maintain a rental unit in a state of repair that complies with the health, safety, and housing standards required by law and having regard for the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 33 of the *Act* requires the landlord to make emergency repairs where they are urgent, necessary for the health or safety of anyone or for the preservation or use of the residential property; and are made for the purpose of repairing the following: **major leaks** in pipes or **the roof**, damaged or blocked water or sewer pipes or plumbing fixtures, the primary heating system, damaged or defective locks that give access to the rental unit or the electrical system. [*My emphasis*]

In the circumstances before me, I do not find that the issue of a broken window to be an emergency repair as defined in the Act, but I do find that it is a necessary repair under the Act for health, safety and housing reasons.

In this case, I find the tenant submitted sufficient evidence that she made repeated oral and written requests to the landlord for several months to repair the bedroom window, and that no measures were taken until two days prior to the hearing.

I find it reasonable to conclude the landlord would not have made the repair absent an application for dispute resolution filed against them.

I therefore find the tenant is entitled to recovery of her filing fee of \$100.

I direct the tenant to deduct \$100 from her next, or a future monthly rent payment, in satisfaction of this monetary award.

The tenant is instructed to inform the landlord when the deduction has been made, so that the landlord will not serve them a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities for deficient rent.

Additional matters –

The tenant was unaware that the Province has extended the rent increase freeze until July 10, 2021.

Therefore, the tenant was informed that the rent increase notice she received from the landlord will not take effect until at least July 10, 2021. The tenant is to continue to pay the current pre-increase rent amount until July 10, 2021.

For more information, the tenant may visit the following Residential Tenancy Branch (RTB) website:

<https://www2.gov.bc.ca/gov/content/housing-tenancy/residential-tenancies/during-a-tenancy/rent-increases?keyword=rent&keyword=freeze>

Also, in reviewing the document submitted by the tenant as a “rental agreement”, I find upon review, this document was an application to rent, not a written tenancy agreement.

The tenant said that the landlord has not provided her with a written tenancy agreement, despite asking for one.

Under section 13 of the Act, a landlord must prepare in writing every tenancy agreement entered into on or after January 1, 2004.

Therefore, by way of section 62 (3) of the Act, I **order** the landlord to prepare a written tenancy agreement with the requirements of section 13, and is **ordered** to provide the tenant **immediately** with a copy.

If the landlord attempts to put in terms not agreed by the parties, the tenant may file another application for dispute resolution to clarify the terms.

Conclusion

The requested repair was made two days prior to the hearing.

The tenant is directed to deduct \$100 from a future monthly rent payment in order to recover the filing fee.

The tenant was informed rent increases are frozen until July 10, 2021.

The landlord was ordered to prepare a written tenancy agreement and to provide the tenant with a copy.

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: November 19, 2020

Residential Tenancy Branch