



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

DRI, OLC, MNDCT, FFT

Introduction:

This hearing was convened in response to an Application for Dispute Resolution filed by the Tenants, in which the Tenants applied for a monetary Order for money owed or compensation for damage or loss, for an Order requiring the Landlord to comply with the *Residential Tenancy Act (Act)* and/or the tenancy agreement, to dispute a rent increase, and to recover the fee for filing this Application for Dispute Resolution.

The male Tenant stated that on January 08, 2021 the Dispute Resolution Package and evidence the Tenants submitted to the Residential Tenancy Branch were sent to the Landlord, via registered mail. The Landlord acknowledged receipt of these documents and the evidence was accepted as evidence for these proceedings.

On March 02, 2021 the Landlord submitted evidence to the Residential Tenancy Branch. The Landlord stated that this evidence was mailed to the Tenants on March 02, 2021. The Tenants acknowledged receiving this evidence and it was accepted as evidence for these proceedings.

The participants were given the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions. Each participant affirmed that they would speak the truth, the whole truth, and nothing but the truth during these proceedings.

Issue(s) to be Decided:

Are the Tenants entitled to compensation for cleaning a refrigerator?

Has there been an unlawful rent increase?

Is there a need to issue an Order prohibiting the Landlord from discussing a rent increase?

Are the Tenants entitled to recover the fee for filing this Application for Dispute Resolution?

Background and Evidence:

The Landlord and the Tenants agree that:

- this tenancy began in 2012;
- the current monthly rent of \$2,050.00 is due by the first day of each month;
- the Landlord has asked the Tenants to mutually agree to a rent increase;
- the Tenants have not agreed to a rent increase;
- the Landlord has not served the Tenants with written notice of a rent increase;
- a rent increase has not been imposed;
- on December 18, 2020 the Landlord replaced the refrigerator in the rental unit with a used refrigerator, which the Landlord has never seen;
- the Tenants advised the Landlord that the refrigerator was dirty and damaged;
- the Tenants provided the Landlord with photographs of the refrigerator;
- the Tenants advised the Landlord that they spent 5 hours cleaning and repairing the refrigerator with duct tape;
- the Tenants initially asked for compensation of \$200.00 for cleaning and repairing the refrigerator;
- the Landlord did not agree to pay \$200.00 in compensation;
- the Landlord initially offered compensation of \$45.00 for cleaning and repairing the refrigerator;
- the Tenants did not agree to accept \$45.00 in compensation;
- in early March of 2021, the Landlord offered to settle all issues in dispute by paying \$125.00 to the Tenants; and
- in early March of 2021, the Tenants told the Landlord they would settle all issues in dispute if the Landlord paid them \$250.00.

At the hearing the Tenants informed the Landlord that they do not wish to agree to mutually agree to a rent increase and they would like the Landlord to refrain from asking them to mutually agree to a rent increase.

The Landlord stated that the *Act* permits her to ask the Tenants if they would mutually agree to a rent increase. Upon being advised that the Tenants did not wish to discuss a mutually agreed rent increase, she reiterated that the *Act* permits her to ask the Tenants if they would mutually agree to a rent increase.

The female Tenant stated that she spent approximately 5 hours cleaning and repairing the refrigerator. She stated she has checked with local repair companies and has

determined that they would charge between \$40.00 and \$150.00 per hour to repair and clean the refrigerator.

The Landlord stated that she thinks it would be reasonable to spend 3 hours cleaning the refrigerator, based on the photographs provided to her. She stated that the Tenants were asking for “hospitable grade sanitation”.

The female Tenant stated that they did not ask for “hospital grade sanitation”, although she did use a “hospital grade” cleaner.

Analysis:

Section 42(2) of the *Act* requires a landlord to give a tenant a notice of a rent increase at least 3 months before the effective date of the increase. Until such time as the Landlord gives the Tenant a notice of rent increase that complies with section 42(2) of the *Act*, I find that the Landlord does not have the right to collect a rent increase.

As the Landlord has not imposed a rent increase, I dismiss the Tenants’ application to dispute a rent increase.

Section 43(1)(c) of the *Act* permits a landlord to impose a rent increase up to an amount agreed to by the tenant in writing. The Landlord is, therefore, correct in asserting that she has the right to ask the Tenants if they would mutually agree to a rent increase.

Section 28(b) of the *Act* stipulates that a tenant is entitled to quiet enjoyment including, but not limited to, freedom from unreasonable disturbance. Although the Landlord has the right to discuss a mutual agreement to increase the rent with the Tenants, repeatedly raising this issue could be seen as a breach of the Tenants’ right to quiet enjoyment of the rental unit. I find this to be particularly true now the Tenants have clearly informed the Landlord that they do not wish to discuss this issue.

In order to protect the rights of both parties, I hereby Order the Landlord to refrain from discussing a mutual agreement to increase the rent on more than one occasion in any calendar year. Both parties are reminded that the Tenants are under no obligation to mutually agree to a rent increase. This Order does not prevent the Landlord from imposing a rent increase that complies with sections 41, 42 and 43 of the *Act*.

Pursuant to section 27(1) of the *Act*, a landlord is obligated to replace a refrigerator that malfunctions if that refrigerator is provided as a term of the tenancy. I find that the Landlord complied with section 27(1) of the *Act* when she provided the Tenants with a

used refrigerator on December 18, 2020.

Although the Landlord was not obligated to replace the refrigerator with a new refrigerator, I find it reasonable to conclude that the Tenants be provided with a clean and reasonably functional refrigerator, even if it is used. On the basis of the testimony of the female Tenant and the photographs submitted in evidence, I find that the used refrigerator required some minor repairs and a significant amount of cleaning.

On the basis of the undisputed evidence, I find that the Tenants spent approximately five hours cleaning and repairing the refrigerator. On the basis of the photographs submitted in evidence, I find this a reasonable amount of time for the cleaning and repairs.

I find the Tenants are entitled to compensation for the five hours they spent cleaning and repairing the refrigerator, in the amount of \$125.00. This award is based on an hourly rate of \$25.00, which I find to be reasonable for labor of this nature. I have placed no weight on the Tenants submission that a professional would charge an hourly rate of \$40.00 or more, as the Tenants are not professionals.

I find that if both parties contributed to the issues in dispute at these proceedings. I find that with reasonable effort from both parties, they should have been able to resolve these issues, without the need for a hearing. I therefore find that the parties should share the cost of filing this Application for Dispute Resolution.

Conclusion:

The Tenant has established a monetary claim of \$175.00, which includes \$125.00 for cleaning/repairing the refrigerator and \$50.00 as compensation for the cost of filing this Application for Dispute Resolution, and I am issuing a monetary Order in that amount. In the event the Landlord does not voluntarily comply with this Order, it may be filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court.

In the event the Tenants do not wish to enforce this monetary Order through the Province of British Columbia Small Claims Court, they may reduce one monthly rent payment by \$175.00, pursuant to section 72(2) of the *Act*.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: March 31, 2021