



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNL-4M, MNDCT, MNRT, FFT

Introduction

This hearing dealt with the adjourned Application for Dispute Resolution filed by the Tenants under the Residential Tenancy Act (the “Act”) for a monetary order for compensation for my monetary loss or other money owed, for a monetary order for the cost of emergency repairs made during the tenancy, and for the return of their filing fee. The matter was set for a conference call.

Both Landlords and the Tenants attended the hearing and were each affirmed to be truthful in their testimony. Both the Tenants and the Landlords were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me. Both parties were advised of section 6.11 of the Residential Tenancy Branches Rules of Procedure, prohibiting the recording of these proceedings.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this decision. This decision should be read in conjunction with the Interim decision dated March 19, 2021.

Preliminary Matter - Amendment

At the outset of the hearing, it was noted by this Arbitrator that on June 14, 2021, the Tenants submitted an amendment application to these proceedings.

The interim decision dated March 19, 2021, states the following:

“I ORDER THAT:

1. The hearing scheduled at 11:00 a.m. (Pacific Time) on March 19, 2021, is adjourned to a date and time to be set by the Residential Tenancy Branch.
2. No amendments may be made to the Tenants' Application.
3. Both the Landlords and the Tenants may submit additional documentary or digital evidence to these proceedings.
4. The Landlords may not submit an Application for Dispute Resolution to be crossed with this Application.”

[Reproduced as written]

Pursuant to point number two in the interim decision the Tenants were ordered to make no amendments to their original application. Accordingly, I dismiss the Tenants' amendment application, and I will continue in these proceedings on the original application.

Preliminary Matter - *Items removed*

During these proceedings, the Tenants withdrew their request for the recovery of a \$105.00 estimate fee and \$321.00 in tools.

The Landlords did not object to these items being withdrawn from the Tenants' claim.

I will continue in these proceedings on the remaining 68 items contained in the Tenants' monetary worksheet.

Issues to be Decided

- Are the Tenants entitled to a monetary order for compensation for my monetary loss or other money owed?
- Are the Tenants entitled to a monetary order for the cost of emergency repairs made during the tenancy?
- Are the Tenants entitled to the return for their filing fee for this application?

Background and Evidence

While I have considered all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

Both parties testified that the tenancy began on April 1, 2008, as a month-to-month tenancy. Rent in the amount of \$1,732.00 was to be paid by the first day of each month, and the Tenants had paid a \$675.00 security deposit at the outset of the tenancy. The Tenants submitted a copy of the tenancy agreement and one-page addendum to the tenancy agreement into documentary evidence. Both parties also agreed that these Landlords purchased this rental unit in August 2020 but that these Landlords had been acting as property managers for the previous owners up until they purchase this property.

The Tenants' testified that they contacted the Landlords on January 2, 2020, to advise them that there was a leak in the roof of the rental unit. Both parties agreed that the Landlords gave permission to the Tenants to make the necessary repairs to the roof. The Tenants are requesting \$9,408.78 in the recovery of their costs to repair the roof, consisting of \$6,720.00 in labour costs and \$2,688.78 in roofing materials. The Tenants submitted seven invoices and seven visa statements into documentary evidence.

When asked to clarify the labour charges, the Tenants testifies that they had completed the repair work themselves and that they are charging for 112 hours of work at \$30 per hour, times two people. The Tenants also testified that they did not keep a log or provide an invoice of their hours worked on the roof, that the requested amount is based on their memory of the work.

The Landlord agreed that they owe the Tenants their costs for repairing the roof; however, they only agreed to pay for the materials where the Tenants have provided an invoice. The Landlords also testified that they feel the Tenants are overcharging for the labour. The Landlords testified that they had the roof inspected and that the inspector, a licenced roofer, had informed them that the labour for the roof repair should be at most \$2,500.00. The Landlord submitted a statement from the roofer into documentary evidence.

Both parties agreed that the Tenants had painted the interior of the property during the tenancy. The Tenants are requesting the recovery of their costs for painting materials and labour in the amount of \$442.55, consisting of \$262.55 in materials and \$180.00 in labour.

The Landlords agreed to the Tenants' requested costs of \$442.55 for painting during these proceedings.

Both parties agreed that the Tenants had installed a new smoke detector in the rental unit during the tenancy. The Tenants are requesting the recovery of their costs for the new smoke detector in the amount of \$69.48.

The Landlord agreed to the Tenants requested costs of \$69.48 for a new smoke detector during these proceedings.

Both parties agreed that the Tenants trimmed trees during the tenancy. The Tenants are requesting the recovery of their costs for tree trimming materials in the amount of \$128.56. The Tenants submitted two invoices into documentary evidence.

The Landlords testified that the trees the Tenants submitted were not on the property but on city land that the Tenants ought to have told them the trees need trimming, so they could inform the city and request that the city trim their trees. The Landlord testified that since these are not their trees, they are not responsible for these costs. The Landlord submitted a copy of the survey of the lot for the rental property into documentary evidence.

The Tenants testified that it was difficult to determine which trees were on the property and which trees were on city land; however, they did confirm that they did not advise the Landlords before trimming these trees.

Both parties agreed that the Tenants completed renovations to the front entrance, the kitchen, and several light fixtures on the rental property during their tenancy. The Tenants testified that they did these renovations as they were under the belief that they would be residing in the rental unit for at least three more years. The Tenants testified that they had originally completed these renovations with the intent of paying for them in full themselves due to the relatively cheap rent they were being charged and the projected long-term tenancy. However, now that the Landlords have ended their tenancy, they are requesting the recovery of their renovation costs in full in the amount

of \$7,361.24, consisting of \$2,409.42 in materials for the bathroom, \$457.76 in material for the kitchen, \$549.11 in new light fixtures, \$544.45 in material for the front entrance and \$3,400.50 in labour. The Tenants submitted 46 invoices, seven visa statements and an estimate for labour costs into documentary evidence.

The Landlords testified that they never gave permission to the Tenants to renovate the property and that they never agreed to enter into a fixed term tenancy for three years with these Tenants. The Landlords testified that the Tenants renovated the rental property without consent and that they are not responsible for the costs of the unapproved renovations.

The Tenants testified that during their tenancy, there had been a rodent infestation on the property that they had paid to have treated. The Tenants testified that they did not notify their Landlords of the rodent problem at the time, but now that the Landlords have ended their tenancy, they are now requesting the recovery of their rodent infestation treatment costs in the amount of \$1,144.50. The Tenants submitted a copy of the treatment invoice into documentary evidence.

The Landlords testified that they were never told there was a rodent infestation on the property and that had they been advised; they would have dealt with the problem. The Landlords testified that the Tenants chose not to tell the Landlord there was a problem and that they are not responsible for these costs after the fact.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

During the hearing, the parties agreed that the Landlords owed the Tenants \$442.55 for painting materials and labour and \$69.48 for a new smoke detector. Accordingly, I award the Tenants the recovery of these costs in the amounts of **\$442.55** for painting materials and labour and **\$69.48** for a new smoke detector.

As for the Tenants' claim for the recovery of their costs to repair the roof of the rental unit, during the hearing, the Landlords agreed to cover the proven costs for roofing materials. I have reviewed the Tenant's breakdown of their costs for roofing materials, listing 11 items, totalling \$2688.78 and compared them to the invoices submitted into

documentary evidence to support the Tenants' claim. I noted that the Tenants submitted seven invoices and seven visa statements; however, I find that the visa statements only indicate an amount and a store name; they do not include a breakdown of what was purchased. As these visa statements do not include a breakdown of items purchased, I am unable to confirm if the amounts on these statements were for roofing materials. Therefore, I find that the visa statements are not sufficient to prove the Tenants claim.

However, the Tenants have submitted seven invoices that correspond with seven of the eleven amounts they have claimed for in their application for the recovery of their roofing material costs. Consequently, I award the Tenants \$1,840.28 in the recovery of their proven costs for roofing materials.

As for the Tenant's claim for \$6,720.00 in labour costs for completing the roof repair, during these proceedings, the parties offered conflicting verbal testimony regarding the labour costs for the roof repair. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim; in this case, the burden of proof is with the Tenants.

I have reviewed the entire evidence package submitted by the Tenants; I noted that the Tenants submitted a roofing repair estimate, dated December 22, 2020, into documentary evidence; however, I noted that this estimate offered no breakdown of labour costs for this type of work. As the Tenants have not provided sufficient evidence to support their claim for \$6,720.00 in labour costs to repair the roof, I must dismiss this portion of the Tenants application.

However, I have also reviewed the entire evidence package submitted by the Landlords, and I noted that the Landlords also submitted a roofing repair estimate, dated April 13, 2021, into documentary evidence. In this estimate, I noted a breakdown of materials and labour costs for this type of work, setting the labour costs at \$2,500.00. As the Landlords agreed to their estimated labour costs in these proceedings, I find it appropriate to award the Tenants the amount of \$2,500.00 for their labour costs to repair the roof of the rental unit.

Overall, for the roof repair, I award the Tenants **\$4,340.28**, consisting of \$1,840.28 in materials and \$2,500.00 in Labour.

The Tenants' have also claim for the recovery of their costs to repair/renovate the front entrance, bathroom, kitchen, replace lights and pest control treatment (the "Repairs"). I accept the Tenants' testimony that they completed each of these repairs/renovations and the pest treatment without the knowledge or permission of the Landlords. Section 8 of the *Residential Tenancy Regulations* (the "*Regulation*") states the following regarding repairs and maintenance of a rental unit:

Repairs

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.*

Additionally, except for emergency repairs, as defined in section 33 of the *Act*, at no time is a tenant permitted to make regular repairs to a rental unit themselves. I have reviewed the totality of the Tenants' testimony and documentary evidence, and I find that the work they completed to the rental unit, in this portion of their claim, did not meet the definition of emergency repairs as defined by section 33 of the *Act*, and that these repairs described by the Tenants during these proceedings, fall under section 32 of the *Act*, as regular repairs.

Pursuant to section 32 of the *Act* and section 8 of the *Regulations*, the Tenants were required to not only notify the Landlords but also seek their permission regarding each of these repairs before they took action themselves. If, after being notified of the required repairs, these Landlords had refused to make the requested repairs, the Tenants' recourse would have been to file for a hearing with the Residential Tenancy Branch (RTB) requesting that an Arbitrator order the Landlord make the requested repairs to the rental unit.

There is no provision in the *Act* that would allow a tenant to recover their costs for regular repairs conducted without the Landlords knowledge or approval. Consequently, I must dismiss the Tenants' claims for the recovery of their costs to repair/renovate the front entrance, bathroom, kitchen, and replace lights, as well as the pest control treatment in their entirety.

Finally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenants have been partially successful in their claim, I find the Tenants are entitled to the recovery of their \$100.00 filing fee.

I grant the Tenants a monetary order in the amount of \$4,952.31, consisting of \$442.55 in painting costs, \$69.48 for a smoke detector, \$4,340.28 in emergency roof repair costs, and \$100.00 in the recovery of the filing fee for this hearing.

Conclusion

I find for the Tenants pursuant to sections 65 and 72 of the *Act*. I grant the Tenants a **Monetary Order** in the amount of **\$4,952.31**. The Tenants are provided with this Order in the above terms, and the Landlords must be served with this Order as soon as possible. Should the Landlords fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced 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: July 7, 2021

Residential Tenancy Branch