



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0808799 BC Ltd. (d.b.a. Vancouver Rent
It) and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR, MNDCT, RP, OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order to reduce the rent by \$5,000.00 for repairs, services or facilities agreed upon but not provided; for a monetary order of \$10,000.00 for damage or compensation under the Act; for an Order for repairs to the unit, site or property, having contacted the landlord in writing to make repairs, but they have not been completed; for an Order for the Landlord to Comply with the Act or tenancy agreement; and to recover the \$100.00 cost of her Application filing fee.

The Tenant and an agent for the Landlord, M.C. ("Agent"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Agent were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

Preliminary and Procedural Matters

The Tenant provided the Parties' email addresses in the Application, and they

confirmed these addresses in the hearing. They also confirmed their understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

Before the Parties testified, I advised them that Rule 2.3 authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the Tenant indicated various unrelated matters of dispute on the application, all of which we could not cover in the one-hour hearing. I, therefore, asked the Tenant which claim was the most important to her, and she said it was the request for a monetary order for damage or compensation under the Act of \$10,000.00. As such, this is what we reviewed in the hearing, although I also considered the Tenant's claim to recover the \$100.00 cost of her Application filing fee. **The Tenant's other claims are dismissed, with leave to re-apply.**

Issue(s) to be Decided

- Is the Tenant entitled to a Monetary Order, and if so, in what amount?
- Is the Tenant entitled to Recovery of the \$100.00 Application filing fee?

Background and Evidence

The Parties agreed that the fixed-term tenancy began on September 15, 2012 and ran to September 30, 2013, and then operated on a month-to-month basis. They agreed that pursuant to the Parties' tenancy agreement, the Tenant pays the Landlord a monthly rent of \$1,650.00, due on the first day of each month. The Parties agreed that the Tenant paid the Landlord a security deposit of \$825.00, and no pet damage deposit. The Agent said that the Landlord still holds the entire security deposit for the Tenant.

In the hearing, the Tenant explained her claim, as being twofold in nature. She described the problems she has had with the refrigerator and the elevator throughout her tenancy. In the hearing, the Tenant said:

The fridge. It's not cooling food; everything gets soaking wet and spoils. The sent

a repair person. He looked at the water in the inside and said, 'it's normal for this to happen'. I've called repair stores and they said there's a hole in the back of the fridge and it can be full of mouldy slimy substance, which might be the problem. I was also told it's normal. My groceries are spoiled at two or three days. I now have to store my food at a friend's house.

Secondly, the elevators in the building are broken more than they are working. I've been stuck in the elevator probably four times, and I didn't get a response about this. It's 15 floors with one elevator.

I need keys to the stairwell – there's no way to get to the underground without the elevator, and I cannot get up to my floor. The fire department said that is a hazard.

The Agent said:

The variety of different contractors sent have advised her of why her food is going mouldy. They said it's because she has too much in the refrigerator. She never responded to us on how to use the fridge.

The Tenant said:

I understand water condensation and too much food in the fridge, but when there's still hardly anything in the fridge, it doesn't keep. Almost every appliance in here has malfunctioned. Why would I not want to have a working fridge in here? Don't they know why?

Somehow, I'm not sure what's wrong, because when I've called around, they say it's this little hole in the back; if that's plugged... I told them to pull out the fridge to see about the line or something being blocked. That didn't happen on the two times when I was here, and not when my friend was here – they just looked at the fridge on the inside and said it was normal. Since [the Agent] said they would send another person, nobody has come, I believe that was in early 2020. But at least once or twice a year I have asked for this to be looked at.

Also, there's been no heat since 2021 March 15. I suddenly had ginormous hydro bills – see pictures and the written form – a graph of the cost. It went from \$70.00 or \$80.00 to \$400.00. I've lived here nine years, and nothing has changed. They said to go through it - appliance by appliance; they said to shut the breakers off

and narrow it down to what it is. I did that for the fridge, the stove, the dishwasher, heating. . . after doing that for two weeks, I keep looking at the graph on the Hydro site and I provided evidence that it brought down from a huge amount.

I let [the Landlord] know this, and [the Agent] said he would connect with an electrician, or what not. They sent an email telling me to figure out if it is the thermostat or the baseboards. I turned it off, as BC Hydro said, but once the heat is turned out, my Hydro bills are \$60.00 to \$70.00 per month.

Nothing changed, it's 625 square feet.

I asked the Agent why they did not send someone to investigate this matter, and the Agent said:

We contacted an electrician, who connected with [the Tenant]. There would be no way to determine which heater or thermostat was causing this issue. So, he advised [the Tenant] over several emails [she said "one"]. It is very easily laid out, do this, do this, do this. . . we were working with her to find out what happened. She did not send us copies of her bills, as we requested. 'This is not an effective solution.' – she said.

The Tenant said:

On March 18 I sent him a year of graphs and the actual Hydro bills, and he acknowledged receiving them. That I have provided both – see page 26 of the evidence package in section 7.

The Agent said:

We didn't receive the bills themselves. We received a list of outgoing payments she made to BC hydro. The bills tell the kilowatt hours per day. We received a list of the outgoing payments on the Hydro account. Which does show that it has gone up, we acknowledge that. But we needed the bills themselves, to determine when the spike happened.

The Tenant said:

I took photos of the bills with the graphs that show the kilowatt hours. That is the only way I know that the bill has gone up. I also provided photos of the same thing in the evidence. Entire bill – photos sent.

The Agent said:

We did receive the pictures of the graphs, but we didn't need to see a normal month, we need to see the egregious month. We needed that specific one – it may have helped us with the electrician, as to why it had been that way.

I asked the Tenant to explain why she is claiming \$10,000.00, specifically for these matters. She said:

Basically, everything I'm bringing up, I've had to pay for – a year of bills - to compare to a normal time frame. The previous year, including the month it was high, as well as in photos, and in emails and photos.

The underground parkade gate has been broken several times.

Again, I asked the Tenant why "\$10,000.00" – how she calculated this much, and she said:

I'm adding the cost of my bicycle, because it was stolen from the fob room. My bike was \$3,500.00, and a normal amount would be \$3,000.00 – two locks are gone, too.

Being stuck in the elevator. And my mailbox lock was broken into, my mail was stolen in 2015. I let them know that my mail was being stolen, which led to a problem. I didn't find out about it until I went to file taxes in 2017.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Before the Parties testified, I let them know how I would analyze the evidence presented to me. I said that a party who applies for compensation against another party has the burden of proving their claim on a balance of probabilities. Policy Guideline 16 sets out a four-part test that an applicant must prove in establishing a monetary claim. In this case, the Tenant must prove:

1. That the Landlord violated the Act, regulations, or tenancy agreement;
2. That the violation caused the Tenant to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the Tenant did what was reasonable to minimize the damage or loss.

“Test”

The Tenant has set out a number of inadequacies in the residential property that have caused her discomfort, inconvenience, and expenses. The Agent did not provide much evidence that the Landlord had tried to remedy these problems, such that an effective resolution resulted.

However, although I asked her several times about the value of the losses, the Tenant repeatedly told me another story of what was wrong with the residential property. The Tenant mentioned that her expensive bike being stolen, and locks destroyed within the residential property, however, she did not point me to receipts for these losses, nor any other invoices or costs she incurred, due to the Landlord's failure to comply with the Act, regulation, or tenancy agreement.

As set out in Policy Guideline #16 (“PG #16”), “The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party claiming compensation to provide evidence to establish that compensation is due.” .

[emphasis added]

The evidence before me is that the Landlords have allowed deficiencies in the residential property to continue, such as elevators that repeatedly break down, and difficulty satisfying the Tenant with a refrigerator repair; however, the Tenant has failed to establish a basis for the compensation she claimed. In this set of circumstances, I award the Tenant nominal amount of **\$500.00** for the discomfort, inconvenience, and expenses she incurred, pursuant to PG #16 and section 67 of the Act.

Given that the Tenant has been only partially successful, I award her with recovery of half of the security deposit in the amount of **\$50.00**, pursuant to section 72 of the Act.

The Tenant is authorized to deduct **\$550.00** from one upcoming rental payment in complete satisfaction of the monetary awards. The Tenant's other claims are dismissed, with leave to re-apply.

Conclusion

The Tenant is largely unsuccessful in her Application for a monetary order for damage or compensation under the Act from the Landlord. The Tenant failed to provide sufficient evidence establishing the validity of the amount she set out for this claim. I find that the Tenant has provided evidence that she has endured discomfort, inconvenience, and expenses because of deficiencies in the residential property; however, she did not provide sufficient evidence to establish the value of this claim.

The Tenant is granted a nominal award of \$500.00 for her difficulties in this matter. The Tenant is also awarded the recovery of half of her Application filing fee of \$50.00. The Tenant is authorized to deduct **\$550.00** from one upcoming rent payment in complete satisfaction of this award.

The Tenant's other claims that we did not review in this proceeding are dismissed with leave to reapply

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: September 22, 2021

Residential Tenancy Branch