



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, MNDCT, RP, RR, PSF, LRE, OLC, FFT
MNR-DR, OPR-DR, FFL
OPR-DR, MNR-DR, FFL

Introduction

This hearing was convened by way of conference call concerning applications made by a landlord and by 2 tenants.

The tenants have applied for the following relief as against 2 landlords:

- an order cancelling a notice to end the tenancy for unpaid rent or utilities;
- a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement;
- an order that the landlords make repairs to the rental unit or property;
- an order reducing rent for repairs, services or facilities agreed upon but not provided;
- an order that the landlords provide services or facilities required by the tenancy agreement or the law;
- an order limiting or setting conditions on the landlords' right to enter the rental unit;
- an order that the landlords comply with the *Act*, regulation or tenancy agreement; and
- to recover the filing fee from the landlords for the cost of the application.

One landlord has applied twice, once as against each of the tenants, seeking Orders of Possession and monetary orders for unpaid rent or utilities, and to recover the filing fee from the tenants for the cost of the applications. The applications were made by way of the Direct Request process which were referred to this participatory hearing.

Both tenants attended the hearing and each gave affirmed testimony. The line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlords joined the call.

One of the landlords attended at 9:49 a.m. with an Interpreter, after the hearing had commenced. The landlord also gave affirmed testimony, and the Interpreter was affirmed to well and truly interpret the proceedings from the English language to the landlord's Native language and from the landlord's Native language to the English language to the best of the interpreter's skill and ability.

During the course of the hearing the landlord testified that no evidence had been provided to either of the tenants. Any evidence that a party wishes me to consider must be provided to the other party(ies). Since the landlord has not done so, I decline to consider any of the landlord's evidence.

Issue(s) to be Decided

- Has the landlord established that notices to end the tenancies were given in accordance with the *Residential Tenancy Act*?
- Has the landlord established a monetary claim as against the tenants for unpaid rent or utilities?
- Have the tenants established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for loss of food and a hydro deposit and post office box?
- Have the tenants established that the landlords should be ordered to make repairs to the stove and mailbox?
- Have the tenants established that rent should be reduced for repairs, services or facilities agreed upon but not provided, including internet and hydro?
- Have the tenants established that the landlords should be ordered to provide services for facilities required by the tenancy agreement or the law?
- Have the tenants established that the landlords' right to enter the rental unit should be suspended or allowed conditionally?
- Have the tenants established that the landlords should be ordered to comply with the *Act* or the tenancy agreement by providing hydro and internet and that the accounts be transferred to the landlords' name?

Background and Evidence

The first tenant (BH) testified that the landlord turned a condominium apartment into 4 units by removing the living room and dining room and putting up a wall. It's 1 apartment, and each of the tenants has a bedroom.

The first tenant's tenancy began on June 1, 2020 on a month-to-month basis and the tenant still resides in the apartment. Rent in the amount of \$600.00 per month is payable on the 1st day of each month, and the landlords added \$50.00 for parking, but did not provide a copy of either tenancy agreement to the tenant. At the outset of the tenancy the tenant paid the landlords a security deposit in the amount of \$300.00 which is still held in trust by the landlords, and no pet damage deposit was collected.

The tenant received a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities and testified that it is dated July 31, 2021 and contains an effective date of vacancy of August 15, 2021 for unpaid rent in the amount of \$975.00 that was due on July 15, 2021. The tenant disputes that any rent is owed to the landlords.

The tenant further testified that the stove doesn't work and the landlords removed the front plate from the mailbox, and the tenants seek an order that the landlords repair both.

Canada Post won't deliver mail as a result of the damaged mailbox. About 6 months ago another roommate had the mailbox key and the landlords refused to give the tenants a key. The tenants had to obtain a post office box for mail delivery. A receipt for a post office box has been provided by the tenants for this hearing. It is dated June 29, 2021 in the amount of \$81.90. The tenant has also provided a video showing the front of the mailbox missing with other mailboxes having front covers. The tenant can be heard in the video saying that the landlords removed the front cover instead of providing a mailbox key to the tenants.

Internet and hydro are included in the rent and the landlords cut off the internet at the beginning of June, 2021 and the hydro at the end of June, with no notice to the tenants. The tenants lost hundreds of dollars of food as a result. The tenants seek an order that the internet and hydro are registered in the landlords' name and that the landlords pay the bills.

The landlord shows up, walks in without any notice to the tenants and without knocking. The tenant has told the landlord multiple times to knock on the door. The tenants seek

an order limiting the landlords' right to enter the rental unit, and to comply with the *Residential Tenancy Act*.

The tenants claim monetary compensation in the amount of \$600.00 which includes the deposit paid on the hydro, and the tenant testified that whenever power gets cut off, the tenants lose food. Numerous grocery receipts have been provided for this hearing. The tenant also testified that the tenants could not provide more receipts or an accurate list of receipts because the power was cut off.

The second tenant (CB) testified that the second tenant's tenancy began on October 1, 2020 on a month-to-month basis and the tenant still resides in the rental unit. Rent is \$720.00 per month payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenant in the amount of \$360.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is part of a condominium apartment.

The tenant heard the testimony of the first tenant, and agrees with all of that testimony.

The tenant disputes a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 31, 2021 with an effective date of vacancy of August 15, 2021. A copy has been provided for this hearing by the tenants and states that the tenant failed to pay rent in the amount of \$1,080.00 that was due on July 15, 2021. The tenant testified that the landlord attends at the rental apartment and picks up cash, but never gives any receipts.

The tenant testified that the tenants share common areas, such as kitchen and bathroom, but there is no living room.

The landlord does not remember when the tenancies commenced, however one tenant (BH) pays \$650.00 for rent, and the other tenant (CB) pays \$720.00 per month, due on the 1st of each month. The tenant (BH) is in arrears of rent in the amount of \$4,225.00. The other tenant (CB) is in arrears about 6 months and owes \$4,680.00. Sometimes rent is collected in cash and sometimes by e-transfer, and the landlord gives receipts.

The landlord served each of the tenants personally with 10 Day Notices to End Tenancy for Unpaid Rent or Utilities on July 15, 2021, and there were 3 pages each. The landlord later testified that the Notices were served on July 31, 2021.

The landlord denies cutting off the power and testified that hydro was not included in the rent and was supposed to be paid by a different tenant who passed away.

Police and the City found that the condominium was modified illegally and cannot be occupied, which is why the landlord served the notices to end the tenancy.

The dryer and stove were working, but the tenants claimed they were not working since they're not paying rent.

There have been lots of strata fines about smoking and garbage on the balcony and smoking on balcony and the tenants' illegal modification of the apartment, such as blinds. The tenants have been throwing garbage on the balcony and disturbing neighbours and strata fines are \$3,000.00. The tenants have also been stealing stuff and police have been called.

There is no problem with the mailbox; it's from the strata and it's open. Lots of the mailboxes don't have a lock; it's normal in the building. The landlord gave everyone keys and the tenants lost them on purpose because they don't want to pay rent.

The apartment has 4 bedrooms, and some of the landlord's personal items are in 1 bedroom. The kitchen is a common area and the landlord needs access.

The landlord also testified that the 2nd named landlord lives in the rental unit. The landlord later testified that the 2nd named landlord does not live there.

Analysis

Firstly, where a tenant disputes a notice to end a tenancy given by a landlord, the onus is on the landlord to establish that it was given in accordance with the *Residential Tenancy Act*.

The landlord has not established that either of the 10 Day Notices to End Tenancy for Unpaid Rent or Utilities was given in the approved form or that the tenants are in arrears of rent at all.

A lot of the landlord's testimony was inconsistent. When advised that if the landlord resided in the rental unit I have no authority to deal with it, the landlord changed his testimony. When asked why the notice to end the tenancy stated that the tenant (BH) failed to pay rent in the amount of \$975.00 and the landlord's testimony was that the tenant owed \$4,225.00, the landlord testified that some was owed prior but did not elaborate. However the landlord testified that the police and city found that the

condominium was modified illegally and cannot be occupied, which is why the landlord served the notices to end the tenancy.

The landlord also testified that the tenants modified the rental unit, which is inconsistent with the tenant's testimony. I prefer the tenant's testimony because it would not make sense for the tenants to modify a rental unit just to each pay monthly rent to the landlords.

The landlord also testified that it's normal for some of the mailboxes to not have a frontal piece, however the video provided by the tenants shows that all mailboxes except the tenants' has a front piece and a lock.

I simply do not believe any of the landlord's testimony.

The landlord's applications for Orders of Possession are dismissed.

The landlord's applications for monetary orders for unpaid rent or utilities are dismissed.

I order the landlords to repair or replace the stove in the rental unit by December 24, 2021, failing which the tenants will be at liberty to apply for further compensation.

I further order the landlords to replace the front of the mailbox and provide a key to each of the tenants by December 24, 2021, failing which the tenants will be at liberty to apply for further compensation.

A landlord is required to give a copy of the tenancy agreement, and I accept the undisputed testimony of the first tenant that the landlord has not done so. Therefore, I also accept the undisputed testimony of the tenant that hydro and internet are included in the rent. I order the landlords to put the power and internet in the landlord's name by December 20, 2021, failing which the tenants will be at liberty to apply for further compensation for breach of this order. I further order the landlords to pay the internet and power bills and to refrain from having the power or internet cut off.

I further order the landlords to comply with the *Residential Tenancy Act* by refraining from entering the rental unit. A landlord may enter a rental unit only if invited in by the tenants at the time of entry, or by giving the tenants at least 24 hours written notice to enter which must include the date and time of entry, and the reason for entry, which must be reasonable. If the landlord enters the rental unit without giving property notice to do so, the tenants will be at liberty to apply for further compensation for loss of quiet enjoyment of the rental unit.

I also accept the testimony of the tenants that food items have been lost as a result of the power being cut off, and that the tenants had to pay for a post office box to get mail as a result of the landlords removing the frontal piece of the mailbox in the rental complex. The tenants claim \$781.90 for the landlords' breaches, including recovery of the \$100.00 filing fee, and I find that the tenants have established the claim. I grant a monetary order in favour of the tenants in that amount and I order that the tenants be permitted to reduce rent for a future month by that amount or may file the order for enforcement in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, the landlord's applications are hereby dismissed in their entirety without leave to reapply.

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 31, 2021 issued to tenant (CB) is hereby cancelled and the tenancy continues.

The 10 Day Notice to End Tenancy for Unpaid Rent or Utilities dated July 31, 2021 issued to tenant (BH) is hereby cancelled and the tenancy continues.

I order the landlords to repair or replace the stove in the rental unit by December 24, 2021, failing which the tenants will be at liberty to apply for further compensation.

I hereby order the landlords to replace the front of the mailbox and provide a key to each of the tenants by December 20, 2021.

I further order the landlords to put the power and internet in the landlord's name by December 20, 2021 and to pay the bills regularly and to refrain from having the power or internet cut off.

I further order the landlords to comply with the *Residential Tenancy Act* by refraining from entering the rental unit unless the landlords have provided the tenants with no less than 24 hours written notice to include the date and time of entry, and the reason, which must be reasonable.

I hereby grant a monetary order in favour of the tenants as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$781.90 and I

order that the tenants be permitted to reduce rent for a future month by that amount or may otherwise recover it.

This order is final and binding and may be enforced.

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: December 14, 2021

Residential Tenancy Branch