



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, RR, MNDCT, FFT

Introduction

This hearing was convened by way of conference call concerning an application made by the tenants seeking an order that the landlord make repairs to the rental unit or property; an order reducing rent for repairs, services or facilities agreed upon but not provided; a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of the application.

Both tenants and the landlord attended the hearing and the landlord was accompanied by an Agent. The parties each gave affirmed testimony and the parties, or Agent, were given the opportunity to question each other and to give submissions.

No issues with respect to service or delivery of documents or evidence were raised, and all evidence provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

- Have the tenants established that the landlord should be ordered to make repairs to the rental unit?
- Have the tenants established that rent should be reduced for repairs, services or facilities agreed upon but not provided?
- Have the tenants established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for loss of use of the laundry hookups?

Background and Evidence

The first tenant (DNH) testified that this fixed term tenancy began on June 15, 2021 and reverts to a month-to-month tenancy after June 30, 2022 and the tenants still reside in the rental unit. Rent in the amount of \$2,300.00 is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$1,150.00 as well as a pet damage deposit in the amount of \$1,150.00. The rental unit is the top floor of a house, and a copy of the tenancy agreement has been provided as evidence for this hearing. The rental home sold during the tenancy and new owners currently reside in the bottom floor.

The tenant further testified that at the beginning of the tenancy the tenants were told that new windows would be installed. When the tenants arrived to move in, 3 contractors were sleeping on the floor and were working on a much more involved construction project. The tenants couldn't move in on the 15th and had to stay at a hotel. The next night the tenants were hoping to move in, but the whole kitchen had been absolutely totally removed. The tenants were not aware that major renovations were happening.

The rental unit had no kitchen for the first 8 weeks and the tenants had to wash dishes in the bathroom sink. There were no laundry hookups for 11 weeks. The tenants should not have paid full rent for a house that was not livable.

In the beginning, a painter was making a mess and the tenant told the landlord that the tenant would finish, and did. The tenant painted the spare room, hall and ceiling, but couldn't paint the kitchen because the renovations were not complete. The landlord gave the tenant \$1,175.00, part of which was for the tenant's time (\$750.00), and the rest was for electrical work done in the garage, which was not up to code. Workers plugged into the garage which could have started a fire. The tenants paid the electrician about \$425.00 to bring it to code with the landlord's consent, who was out of town at the time. No further compensation was given to the tenants.

The tenants could not do laundry, and the basement was also ripped apart, so the tenants couldn't use that facility. The tenants had told the landlord that they had their own washer and dryer, but couldn't use them in the rental unit.

The tenants did not request any renovations, but wanted the rental unit the way it was when viewed. It was a 2-bedroom unit and the landlord turned it into a 3-bedroom by

ripping out a walk-in closet, making the master bedroom smaller, which happened after the tenants moved in without any prior discussion about it.

Repairs still required are:

- painting in the kitchen;
- mudding on the kitchen ceiling,
- electrical in the kitchen; the lights are hanging and are not safe or secured properly;
- there is no trim at the kitchen window;
- mudding and painting behind the fridge;
- the original door is still there with a cat door and back doors need to be a fire door per code;
- there are no shingles and no under-skirting;
- the new owners painted and now mold is growing through the paint;
- the screen door has bent metal and a photograph has been provided;
- a closet door is missing in a bedroom;
- a transition strip is missing between the hallway to the bedroom;
- trim on the windows need to be finished, and there are no screens.

The tenant testified that the broken screen door was there until the beginning of December. The tenants talked to the new owner about it, and it was very cold.

The washer and dryer are in the mud room.

An electric heater on a wall was connected to the thermostat in the kitchen, so when trying to heat kitchen, the tenants were heating the outside, and could not afford that, so could not keep heat on in the kitchen.

The tenants claim \$1,000.00 per month rent reduction, and the tenant testified that all of this is up to the date while the landlord owned the home.

The second tenant (PH) testified that when the rental unit was first viewed, the parties met at a local restaurant and signed the lease. The landlord said he wanted to turn it into a 3-bedroom unit, but the tenant's said, "No," but knew that new windows were coming.

When the tenants arrived all walls had been ripped up and the next day the kitchen was ripped out. The kitchen was non-existent for 8 weeks, and the tenants had their kitchen belongings in boxes. They could not store food or cook.

The landlord said he would put a washer and dryer in the kitchen but there was not enough space, so the landlord had a space added on the porch, which had a broken screen door held with a bungy cord.

The landlord moved a shed which was used for the construction, blocking access to the sidewalk leading to the garage from the back door, and put a trailer behind the garage with someone living in it. They cut down the cedar shrubs and backed in the 24 foot travel trailer which remained there for 4 months. In total, construction took 6 months.

The tenancy agreement included the yard and a hot tub. When the electrical changed to make the 2nd suite, it was only a 100 amp panel which couldn't run a washer and dryer for 2 homes. The tenants' electrician found 5 mickey-mouse wires, which were not legal or up to code. The tenants purchased cable for \$275.00 and paid the landlord's electrician \$450.00 in total, which included the cost of the cable. The \$1,175.00 compensation given by the landlord included that cost.

The tenants did not know they were renting a home under construction, and the landlord made promises that didn't happen. The tenants had to conform the washer and dryer area to make it usable. The landlord also stated that new doors were coming, but that never happened. When new owners moved into the basement area, the tenant told them that the tenant would seal it up. The tenants had towels hanging over the door to prevent freezing, and the new owner got a new door right away, which was installed on Christmas Eve, and finished off on Boxing Day.

Currently, the pot lights over the island keep falling out, and some walls haven't been painted, mudded or sealed, although it is now almost tolerable. The landlord said that he was selling to a cousin, and told the cousin that he would finish repairs, but that stopped. The new owner has done some work. The tenants had no dishwasher for 3 months however the tenant found an end piece and it was finally installed. It was 8 weeks until the counter and sink in the kitchen were finished. The tenants have 2 dogs, and had no where else to go.

Copies of emails and photographs have been provided by the tenants for this hearing.

The landlord testified that at move-in, the tenants asked for new appliances and a new kitchen, and never complained until the rental unit sold. They were happy and now just want more money from the landlord.

SUBMISSIONS OF THE TENANTS:

The new landlord said that a new tenancy agreement would be drawn up. The landlord's property manager has never been at the rental unit. The tenants did not get what they agreed to, and none of it should have happened. The tenants never asked for any renovations.

SUBMISSIONS OF THE LANDLORD'S AGENT:

Laundry is not included in the tenancy agreement. The tenants have not shown what compensation should be awarded or how it is calculated. The construction did not take 5 or 6 months, and refers to an email in September provided for this hearing. The tenants also said that other repairs will be taken up with the new owner.

Analysis

A landlord is required to provide and maintain rental premises in a state of decoration and repair that makes it suitable for occupation by a tenant, not enter into a tenancy agreement and start major construction requiring the tenants to occupy an unlivable rental unit.

I have reviewed all of the tenant's evidence, and there is none provided by the landlord. I do not accept the landlord's testimony that the tenants wanted a new kitchen, or that the tenants were happy until the house sold. It is very clear that the landlord failed to comply with the *Residential Tenancy Act* and the tenancy agreement.

The tenancy agreement specifies a fixed term starting June 15, 2021 and the rental unit sold in November, 2021. I find that the tenants have established a claim for reduction of rent of \$1,000.00 per month from June 15, 2021 to November 15, 2021, for a total of \$5,000.00.

With respect to the tenant's monetary claim for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, the tenants claim an additional \$500.00 for no laundry hookups. I agree with the submission of the landlord's agent that laundry appliances are not included in the tenancy agreement, however I also accept the undisputed testimony of the tenant that the landlord was aware that the tenants had their own appliances, but could not connect them due to the construction started by the landlord, and I grant the \$500.00 claim.

With respect to repairs still required, the rental home has sold, and now it will be up to the new owner to finish the repairs, and I cannot order the landlord, who no longer owns

the rental unit to complete the repairs. If repairs remain outstanding, the tenants will be at liberty to make a new claim as against the new owner.

Since the tenants have been partially successful with the application the tenants are also entitled to recovery of the \$100.00 filing fee, and I grant a monetary order in favour of the tenants in the amount of \$5,600.00. The tenants may enforce the monetary order by filing it in the Provincial Court of British Columbia, Small Claims division as a judgment.

Conclusion

For the reasons set out above, the tenants' application for an order that the landlord make repairs to the rental unit or property is hereby dismissed.

I hereby grant a monetary order in favour of the tenants as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$5,600.00.

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: February 16, 2022

Residential Tenancy Branch