



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RR, RP, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A participatory hearing, by teleconference, was held on May 19, 2022. The Tenants applied for multiple remedies under the *Residential Tenancy Act* (the "Act").

Both sides attended the hearing and provided affirmed testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other's documentary evidence and the Landlords received the Tenant's Notice of Dispute Resolution Proceeding.

Both parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. 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.

Issue(s) to be Decided

- Is the Tenant entitled to a rent reduction for the issues she has raised?

Background and Evidence

During the hearing, the Tenants clarified that they are seeking a retroactive reduction in rent in the amount of \$1,000.00 per month for January, February and March 2022. Of this \$1,000.00 amount, the Tenants are seeking \$700.00 per month because they feel they have had to pay an excessive amount in electricity to heat their house for these

months. The other 300.00 is because the heat often never got warm enough to keep them comfortable during the early part of this year (winter). The Tenants are also seeking an order for the Landlord to make repairs to the rental unit and to improve the insulation of the house.

The parties agree that:

- the tenancy started on December 15, 2021, and is for a fixed term, ending on December 31, 2022. A copy of the tenancy agreement was provided into evidence.
- monthly rent is \$4,800.00 per month.
- heat and electricity are not included in monthly rent as per the Tenancy Agreement.
- the subject rental unit is a large 1914 single family home and is approximately one block from the ocean
- the house is heated by electric baseboard heat
- hot water is also heated by electricity
- dishwasher, stove, and dryer also run on electricity

The Tenants stated that they have a family of 6, including 4 kids, and they moved to this house from out of country. The Tenants stated that they found this house with the assistance of a relocation company, who initially viewed the property on their behalf in early November 2021. The Tenants stated that they personally viewed the rental property in late November 2021. The Tenants stated that they asked the Landlord how much electricity would cost and they were told that it would likely be around \$300.00-\$500.00 per month, given there were electric baseboards and single pane windows. The Tenants stated that the Landlord offered this as an estimate, based on her experience with similar homes in the area. The Tenants suggested that their actual bills are at least double this in cooler months.

The Tenants stated that the heat inside the home is often between 16-18 degrees celcius, despite the fact that they have the heat set to 20. The Tenants stated that they are routinely too cold to be comfortable when the outside temperatures are 5 degrees Celsius or lower. The Tenant stated that the Landlord had an electrician come and inspect the electrical aspects of the house and the heaters after they complained of high electricity bills, but no issue with the electrical system was identified. The Tenants stated that the high electrical bills are likely the result of poor insulation, and drafty windows and doors. The Tenants stated that the Landlord came and installed weather stripping on the doors, but it fell off within weeks, and didn't work.

The Tenants stated that they have looked at their BC Hydro bills, online, and have noticed that the consumption for their house is significantly higher than similar homes nearby. The Tenants provided copies of some of the consumption data from their online account, which shows that their estimated bill, taken at the end of January 2021, was for \$944.00 for a 2 month period (December 14 – February 11). The Tenants also provided a screenshot of their daily consumption chart showing that their daily rate for electricity usage was around \$30.00 in early February 2022. The Tenants stated that this is well above what they thought the house would cost to run. The Tenants stated that they believed the Landlord should have done more diligence prior to renting the house.

The Tenants stated that they are not sure exactly what repairs need to be done to improve the insulation and energy efficiency, but they suggested that the Landlord perhaps do an energy audit and look into more efficient windows, doors, and insulation.

The Landlord stated that they are a professional property management company and they take all complaints of this nature seriously. The Landlord explained that they had several conversations with the Tenants about the electricity bills and ways to reduce consumption. The Landlord stated that as a gesture of goodwill, they offered the Tenants a \$200.00 rent reduction for a few key winter months where bills were likely higher. However, the Tenants did not accept this amount. The Landlord stated that on February 17, 2022, they sent a contractor to the property, who added some weather stripping to the doors, but they acknowledge this did not work as well as hoped. The Landlords stated that they also sent an electrician to the property on February 4, 2022, to look for “electrical leaks” and ensure the system was working as designed.

The Landlord also stated that they called BC Hydro to ask about the average bills, and what should be expected for this type of home. The Landlord noted that the average consumption charts referenced by the Tenants include condos, smaller homes, and houses which are not heated by electricity. The Landlord stated that this house is a large house, close to the water, and this winter was unseasonably cold. The Landlord understood that this could have impacted the bills.

The Landlord also stated that they sent an electrician to the property on March 7, 2022, to specifically look at the heaters, and he determined that they were functioning properly.

Analysis

A party that makes an application against another party has the burden to prove their claim.

In this instance, the burden of proof is on the Tenant to prove the existence of the damage/loss and that it stemmed directly from a violation of the Act, regulation, or tenancy agreement on the part of the Landlord. The Tenant must also provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did everything possible to minimize the damage or losses that were incurred.

The Tenants are seeking a reduction in rent of \$1,000.00 per month for January – March of 2022 because of the high utility bills. More specifically, the Tenants are seeking \$700.00 per month because they feel they have had to pay an excessive amount in electricity to heat their house for these months, and they are also seeking \$300.00 /month because the heat often never got warm enough to keep them comfortable during these months. The Tenants are also seeking an order for the Landlord to make repairs to the rental unit to improve the efficiency of the house.

Generally, I note the following relevant portions of the Act and the Policy Guidelines:

The Residential Tenancy Branch Policy Guideline #22 *Termination of Restriction of a Service or Facility* states the following:

C. RENT REDUCTION

Where it is found there has been a substantial reduction of a service or facility, without an equivalent reduction in rent, an arbitrator may make an order that past or future rent be reduced to compensate the tenant.

If the tenancy agreement doesn't state who is responsible for any added service or facility, not provided by the tenant, after the commencement of the tenancy, and there is a cost involved in obtaining the service or facility, the landlord is responsible for the cost, unless the landlord has obtained the written agreement of the tenant to be responsible for the cost.

Where there is a termination or restriction of a service or facility for quite some time, through no fault of the landlord or tenant, an arbitrator may find there has been a breach of contract and award a reduction in rent.

Where there is a termination or restriction of a service or facility due to the negligence of the landlord, and the tenant suffers damage or loss as a result of the negligence, an arbitrator may also find that the tenant is eligible for compensation for the damage or loss.

Section 32(1) of the Act states that a Landlord must provide and maintain residential property in a state of decoration and repair that:

- (a) *complies with the health, safety and housing standards required by law, and*
- (b) *having regard to the age, character and location of the rental unit, makes it suitable for occupation by the tenant.*

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

I note the subject rental unit is a large single-family home that is over 100 years old, and is in close proximity to the ocean. I also note that it has single pane windows, and has older style exterior doors. Much of these features appear original to the home. The photos of the home show that it is largely well kept, although it has some original, and likely energy inefficient features. I note the Tenants physically attended the rental unit prior to entering into the tenancy agreement, and some of the issues with efficiency were raised at that time, such as windows. It appears the Landlord provided a general estimate of electricity consumption when the Tenants viewed the property, but it does not appear there was any sort of guarantee or agreement that the electricity bills not exceed \$300.00-\$500.00 per month, otherwise it would be the Landlord's responsibility.

Overall, I am not satisfied that the Landlord has failed to sufficiently repair and maintain the house, after considering the age, character and location of the house. Also, I am also not satisfied that there is sufficient evidence to show that any issues or fluctuations in the interior temperature were such that it was not suitable for occupation, after considering the age, character and location of the house. The Tenants have provided no readings or evidence to show that the temperatures inside the home were not reasonable, given the age, character, and location of the house. I decline to issue any orders to the Landlord to repair the house, as I am not satisfied they are in breach of section 32 of the Act or the Tenancy Agreement.

Next, I turn to the Tenants' claim for a rent reduction, in the amount of \$1,000.00. As part of this \$1,000.00 per month in rent reduction, the Tenants are seeking \$700.00 per month because they feel the electrical utility bills are excessive and are higher than they anticipated. However, the tenancy agreement clearly shows that the cost of electricity and heat is not included in the tenancy agreement. I do not find the Landlord is liable for the costs to heat the home, even if those costs are high, due to the inefficient nature of the house. I am not satisfied the inefficiencies are unreasonable after considering the age, character, and location of the house.

I also note the Tenants are seeking \$300.00 per month for loss of comfort, due to ineffective and inefficient heating in the house. However, the Tenants have provided insufficient evidence to demonstrate what the temperature was, when, and how they were impacted during the material times. There are no readings, and very limited evidence as to what the temperatures were in the house at any given time. Overall, I am not satisfied that the Tenants have sufficiently demonstrated that the temperatures inside the house were such that they either lost the quiet enjoyment of their home, or that they ought to be entitled to a rent reduction for this issue.

I decline to award any rent reduction (past or future) or monetary compensation, due to the above noted issues.

Given the Tenants were largely unsuccessful, I decline to award the recovery of the filing fee paid.

Conclusion

The Tenants' application is dismissed, without leave to reapply.

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: May 20, 2022

Residential Tenancy Branch