



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR, RP, MNDCT, FFT

Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a tenancy. In this application for dispute resolution, the tenants filed on May 17, 2022 for:

- a rent reduction for repairs, services, or facilities agreed upon but not provided;
- repairs made to the unit, site, or property, having contacted the landlord in writing;
- compensation for monetary loss or other money owed; and
- the filing fee.

The hearing was attended by the tenants but not the landlord; the tenants were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The tenants testified they served the Notice of Dispute Resolution Proceeding (NDRP) on the landlord by registered mail on June 4, 2022 to the landlord's address for service on the tenancy agreement, and provided a tracking number as noted on the cover page of the decision. The tenants testified that as the package was returned to them, they also served the landlord by email, in two parts, the first part sent on August 6, 2022, and the second part on September 13, 2022, after receiving the requested read receipt from the landlord.

I find the tenants served the landlord by registered mail on June 4, 2022 in accordance with section 89 of the Act, and deem their NDRP and evidence received by the landlord on June 9, 2022, pursuant to section 90 of the Act.

Preliminary Matter

The tenants testified they vacated the rental unit on September 1, 2022. Therefore, in accordance with section 62(4)(b) of the Act, I dismiss their application for repairs to be made to the unit, as it is moot.

Issues to be Decided

- 1) Are the tenants entitled to a rent reduction?
- 2) Are the tenants entitled to compensation for monetary loss or other money owed?
- 3) Are the tenants entitled to the filing fee?

Background and Evidence

While I have considered the documentary evidence and the testimony before me, not all details of the submissions and arguments are reproduced here. The relevant and important aspects of the tenants' claims and my findings are set out below.

The tenants provided the following particulars regarding the tenancy. It began December 15, 2021 and ended September 1, 2022; rent was \$2,800.00, due on the first of the month; and the tenants paid a security deposit of \$1,400.00, which the landlord has returned.

The tenants' application indicated they had applied for a rent reduction of \$250.00 a month, and they submitted as evidence an email to the landlord, dated March 2022, in which one of the tenants states that the washer has not worked since the beginning of the tenancy. Also submitted as evidence is an undated email in which one of the tenants lists issues with the rental, including that the dishwasher does not work.

The tenants testified that the landlord had offered them a rent reduction of \$25.00 a month, which they did not accept, and that they had paid the full rent of \$2,800.00 during the tenancy.

The tenants testified they are now seeking a rent reduction of \$250.00 a month, for 8 months, for a total of \$2,000.00.

The tenants testified that multiple services that the tenancy agreement indicated were included in the rent were not provided.

The tenants testified that the washer was extremely loud, and did not spin properly, so would leave their clothes soaking wet, and would also damage their clothing. The tenants testified that the dishwasher did not work, and that its top arm was falling off, missing the required piece to secure it. The tenants testified that garbage was rarely collected, and that as a result, the garbage would attract people and rats. The tenants testified they did not have hot water for showers for the first two months of the tenancy until they repaired the issue themselves, as the landlord did not respond when the tenants brought the issue to their attention.

A copy of the tenancy agreement is submitted as evidence and notes that laundry, a dishwasher, and garbage collection is included in the rent.

The tenants testified they are also seeking to recover \$139.00 they spent on a rug, which the landlord said they would pay for.

The tenants testified that when they complained to the landlord about the floor in their room being splintered and causing one of the tenants injury, the landlord suggested the tenants purchase a rug to cover the floor, and that the landlord would compensate the tenants for it.

The tenants submitted as evidence a copy of the email exchange from March 2022 in which the landlord suggests a budget of \$150.00 to \$280.00 for a rug; also submitted is a copy of the receipt for \$138.82 for the rug the tenants purchased, and an email dated April 4, 2022, providing the landlord with a copy of the receipt.

Analysis

Rent Reduction

Section 65 of the Act provides that an arbitrator may determine an amount that a tenant must deduct from rent to be expended on maintenance or a repair, or on a service or facility, and that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement.

With respect to rent reduction, [Policy Guideline 22. Termination or Restriction of a Service or Facility](#) states:

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.

...

Where the tenant claims that the landlord has restricted or terminated a service or facility without reducing the rent by an appropriate amount, the burden of proof is on the tenant.

The tenants testified that since the beginning of the tenancy the washer and dishwasher did not work, garbage was rarely collected, and they did not have hot water at the beginning of the tenancy until they repaired the issue themselves.

The tenants have provided supporting documentation including correspondence with the landlord regarding the rental's deficiencies, and a copy of the tenancy agreement, which notes that laundry, a dishwasher, and garbage collection are included in the rent.

As the tenants have provided affirmed undisputed testimony and documentary evidence regarding services agreed upon in the tenancy agreement that have not been provided, or have been rarely provided, by the landlord, I find the tenants have proven there has been a substantial reduction of a service or facility without an equivalent reduction in rent.

Therefore I find that, in accordance with section 65 of the Act, the tenants are entitled to compensation in the amount of \$250.00 a month, for 8 months, for a total of \$2,000.00.

Compensation for Monetary Loss

Section 67 of the Act and [Policy Guideline 16](#) provide that if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party. In this case, the onus is on the tenants to prove entitlement to a claim for a monetary award.

Policy Guideline 16 states:

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 who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Section 32 of the Act includes:

Landlord and tenant obligations to repair and maintain

32 (1) 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 a tenant.

The tenants testified that during the tenancy, they reported to the landlord that one of the tenants had hurt themselves on the splintered floor of the unit. As a solution, the landlord offered for the tenants to buy a rug, which the landlord would pay for, and the tenants accepted this solution.

In support of their claim, the tenants submitted as evidence a copy of the email exchange with the landlord, a copy of the receipt for the rug the tenants purchased, and an email in which one of the tenants provides the landlord with a copy of the receipt.

Based on the tenant's testimony and documentary evidence, I find that the landlord failed to repair and maintain the unit as required by section 32 of the Act, which resulted

in the tenant's purchasing a rug for \$138.82, so as to avoid further splinter injuries, and that the cost of the rug was below the price range suggested by the landlord.

I find that, on a balance of probabilities, the tenants have proven that damage or loss resulted from the landlord not complying with the Act, the regulations, or the tenancy agreement, as required by section 67 of the Act, and I therefore find they are entitled to compensation in the amount of \$138.82.

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 are successful in their application, I order the landlord to pay the \$100.00 filing fee the tenants paid to apply for dispute resolution.

I find the tenants are entitled to a monetary order for \$2,238.82: the total of \$2,000.00 for the rent reduction, \$138.82 in compensation, and \$100.00 for the filing fee.

Conclusion

The tenants' application is granted.

The tenants are granted a monetary order in the amount of \$2,238.82. The monetary order must be served on the landlord. The monetary order may be filed in and enforced as an order of the Provincial Court of British Columbia (Small Claims).

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: October 24, 2022

Residential Tenancy Branch