



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, ERP, OLC, RR, FF

Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the Act) for Orders as follows:

1. A Monetary Order for money owed or compensation for damage or loss - Section 67; (\$50)
2. An Order for the Landlord to Comply with the Act, regulation or tenancy agreement – Section 62(3)
3. An Order for the landlord to make repairs for health or safety reasons – Section 33
4. An Order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided – Section 65
5. An Order to recover the filing fee for this application - Section 72 (\$50).

Despite the landlord having been served with the application for dispute resolution and notice of hearing by registered mail in accordance with Section 89 of the Residential Tenancy Act (the Act) the landlord did not participate in the conference call hearing. The tenant provided a tracking number for the service by registered mail. I note that failure to accept or collect registered mail is not a ground for Review. The tenant was given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Should the landlord be Ordered to make emergency repairs, or repairs?

Should the landlord be Ordered to Comply with the Act?

Is the tenant entitled to a reduction in the rent payable?

Is the tenant entitled to the monetary amounts claimed?

Background and Evidence

The undisputed evidence in this matter is as follows. The tenancy began in 2003 as an agreement between the landlord and S.S. and later joined by her daughter J.M. Rent in the amount of \$390 is payable each month. The tenant rents a 12 ft. X 65 ft. manufactured home with an 8 ft. X 40 ft. added extension which the tenant describes as a “cold storage porch” – which porch is covered by a corrugated roof material and

enclosed. By the tenant's definition and description, the porch is part of the useable space available to the tenant under the tenancy agreement but is not utilized for occupancy as living area.

The tenant testified that for over three (3) years the tenant has asked the landlord every year to repair the roof of the porch, as it is leaking and wetting the useable area beneath in which the tenant stores their items and a freezer unit. The deficiency in the roof structure is visible as holes in the roof material and the area below becomes wet. The tenant claims that the landlord repeatedly has stated that they will attend to the roof repair in the spring, but has not. The tenant testified the tenancy relationship has become acrimonious and not amenable to resolving issues. The tenant seeks for the landlord to be ordered to repair the porch roof, as well as an issue respecting an outside electrical outlet which is used to transfer electrical power to the living area.

In support of their claim the tenant provided photographs of the storage porch area depicting the deteriorated condition of its roof and some of the damage from the resulting water ingress. The tenant also provided one written estimate dated from a purported professional contractor whom is also a resident of the home park. The written estimate claims to be a gross approximation for repairs. The author was not made available for the hearing, but the tenant testified that the estimate was given *after* an onsite inspection.

The tenant also seeks recovery of costs for gasoline in the amount of \$50 for transportation costs to file this application.

The tenant seeks for the landlord to comply with the Act and make the requested repairs to the porch roof; and, also be permitted to reduce rent by an amount equivalent to a reduction in the value of the tenancy.

Analysis

Based on the tenant's testimony, and preponderance of the evidence, I find that the tenant's contract with the landlord is inclusive of the porch area which is the subject of this application. I find that the landlord is responsible, by virtue of Section 32 of the Act, and the corresponding Schedule 8 of the Residential Tenancy Regulations to make necessary repairs to the residential property to make it suitable for occupation and use by the tenant. I find the landlord was requested by the tenant to make repairs to the porch roof on several occasions, but has failed to do so. I find that the tenant's estimate for the work is admittedly ambiguous in describing what is effectively required.

I find that the tenant has not complied with the remedies available to them in the event of a need for *emergency repairs* as prescribed by Section 33 of the Act, or Schedule 8 of the Regulations – which state that upon the tenant duly notifying the landlord, may proceed and acquire the required emergency repairs and obtain reimbursement from the landlord. The Act and Regulations can be viewed at www.rto.gov.bc.ca . None the

less, I am satisfied that the tenant's request for repairs is valid, and the landlord has not complied with the Act's Section 32.

As a result of all the foregoing,

I Order the landlord to comply with the Act, and repair or replace the porch roof (the roof repairs) as necessary, so as it conforms to its original or better construction. Given the potential limitations imposed by the weather, **I Order** the roof repairs to be completed before May 31, 2012.

I Order the landlord to comply with the Act, and repair the outside electrical outlet (the outlet repair) emanating from the porch area (as necessary), and that the outlet repair must be performed by a qualified contractor. **I Order** the outlet repair to be completed before January 31, 2012.

I find that the value of the tenancy has been reduced by the problems associated with the compromised porch roof. As a result I find the tenant is entitled to a reduction in the rent payable until such time as the landlord completes the roof repairs. Section 65(f) of the Act allows the Director to reduce past or future rent equivalent to a reduction in the value of the tenancy.

I grant the tenant a reduction in the rent payable for December 2010 to November 2011 in the amount of **\$25** per month, for a total rent reduction of **\$300**, to end of November 2011.

I Order that the rent payable effective December 2011 will reflect a rent reduction of **\$40** per month. Therefore, the rent for December 2011 will be \$350. **I further Order** the rent reduction will continue each month thereafter, and will return to the usual rent payable of \$390 per month the month following the month in which the roof repairs are completed.

I find that the tenant is not entitled to costs associated with advancing their application, other than the filing fee. Their application for the cost of gasoline **is dismissed** without leave to reapply.

The tenant is entitled to recover the filing fee for this application in the amount of **\$50**.

As a result, the sum of the tenant's monetary awards is **\$350**.

Conclusion

In satisfaction of the monetary award for the tenant, **I Order** that the tenant may deduct **\$350** as a one time deduction from a future rent,

The landlord has been **Ordered** to comply with the Act.

The landlord has been **Ordered** to make certain and specific repairs. The tenant must not unreasonably impede the landlord from satisfying the Orders.

The tenant has been granted a reduction of past and future rent as **Ordered**.

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: November 25, 2011

Residential Tenancy Branch