



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, ERP, RP, RP, RR, FF

Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss, an order for emergency repairs for health or safety concerns, an order for the Landlord to make repairs to the unit, site or property, an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided and recovery of the filing fee.

The Tenant attended the hearing by conference call and gave undisputed testimony. The Landlord did not attend or submit any documentary evidence. The Tenant states that the Landlord was served with the notice of hearing package via Canada Post Registered Mail and has submitted documentary evidence that on January 29, 2014 the Landlord was served as confirmation. I accept the undisputed testimony of the Tenant and find that the Landlord has been properly served.

It was clarified with the Tenant at the beginning of the hearing that he wishes to amend the application to lower the monetary claim from \$5,000.00 to \$2,832.09, to withdraw his request for emergency repairs and some aspects of the dispute as some repairs to the rental have been resolved with the Landlord. The Tenant states that the only remaining issues are related to the loss of use of the swimming pool and hot tub (monetary claim of \$2,600.00) and \$232.09 to recover an excessive Fortis BC invoice based upon an unserviced gas fireplace and furnace, an order for repairs for the pool and hot tub and an order to be allowed to reduce rent for \$650.00 per month until the pool and hot tub are repaired for use.

The Tenant also seeks an order for the Landlord to make repairs of a living room window that is broken for which the Landlord has promised to fix, but has failed to do so since the beginning of the tenancy.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order for loss of use of the pool/hot tub?

Is the Tenant entitled to a monetary order for compensation?

Is the Tenant entitled to an order for repairs to the pool/hot tub and the living room window?

Is the Tenant entitled to an order to reduce rent until the pool/ hot tub are repaired?

Background and Evidence

The Tenant states in his direct testimony that there is a signed tenancy agreement that monthly rent was \$3,450.00, but has not submitted a copy of which.

The Tenant seeks a monetary claim of \$2,832.09 which consists of \$2,600.00 for the loss of use of a pool and hot tub for 4 months (December to March) at \$650.00 per month and \$232.09 for the excessive cost of a Fortis BC invoice for failing to inspect and service the fireplace and furnace as per the agreed upon condition inspection report for the move-in. The Tenant also seeks an order to complete repairs/service the pool and hot tub for use and to be allowed to reduce rent of \$650.00 per month until the pool and hot tub are fit for use.

The Tenant states as per the completed condition inspection report for the move-in, that the broken window was noted in the move-in for the living room, "fireplaces are past due for inspection and repair, hot tub and swimming pool in need of service and cleaning." The Tenant also relies on other craigslist ads which show similar homes for rent in the area that do not have a swimming pool or hot tub. The Tenant states that these similar rentals costs on average \$2,800.00 as shown without a pool. The Tenant has provided copies of text message exchanges with the Landlord that the Landlord consented to have the pool and hot tub repaired, but upon inspection by a technician refused to complete the repairs as stated by the invoice from "Odd Jobs Are Us Inc." for \$3,759.41. The Tenant states that he paid the initial \$2,000.00 amount as authorized by the Landlord and that the Landlord failed to complete the repairs stating that they were too costly. The Tenant has also submitted copies the Fortis BC invoices for the two months that show a dramatic drop to almost 50% after the inspection/service was completed on the fireplace and furnace.

Analysis

I find based upon the undisputed evidence of the Tenant that a claim has been established for the loss of use of a swimming pool and hot tub for 4 months. I accept the undisputed evidence of the Tenant that this loss would equate to \$650.00 per month based upon the undisputed comparison data provided by the Tenant. However, I take into account that the loss of use of the pool and hot tub were during the winter months and that the Tenant has not provided any details if the pool was usable in the winter months (ie, heated pool). On this basis, I find that the loss of use of the pool and hot tub entitles the Tenant to a limited amount of \$500.00 per month during the 4 winter months, totalling \$2,000.00.

The Landlord is ordered to make repairs to the swimming pool and hot tub. If the Landlord fails to comply with this order, I also find on this basis as the loss of use has occurred that the Tenant is entitled to deduct \$650.00 per month until the pool and hot tub are repaired for use beginning April 1, 2014 until such time as the pool and hot tub are fit for use.

On the claim of recovery of \$232.09, I find based upon the undisputed evidence of the Tenant that a claim for recovery of these costs have been established. The Tenant has established a monetary claim of \$232.09.

I find based upon the undisputed evidence of the Tenant that an order for repair of the living room window is established. The Landlord is ordered to have the living room window repaired as soon as possible. If the Landlord fails to comply with this order, the Tenant may deduct a nominal amount of \$50.00 per month until the window is repaired starting April 1, 2014.

The Tenant has established a total monetary claim of \$2,232.09. The Tenant is also entitled to recovery of the \$50.00 filing fee. The Tenant is granted a monetary order for \$2,282.09. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court. In the alternative, as the tenancy continues, I order that the Tenant may be allowed to deduct one-time, \$2,282.09 from the monthly rent to recover this claim.

Conclusion

The Tenant has established a monetary claim for \$2,282.09.

The Landlord is ordered to repair the swimming pool and hot tub.

The Landlord is ordered to repair the living room window.

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: March 20, 2014

Residential Tenancy Branch

