



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDCT, RR, PSF, FFT

Introduction

This hearing was convened by way of conference call concerning an amended application made by the tenants seeking the following relief:

- an order that the landlord comply with the *Residential Tenancy Act*, regulation or tenancy agreement;
- a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement;
- an order reducing rent for repairs, services or facilities agreed upon but not provided;
- an order that the landlord provide services or facilities required by the tenancy agreement or the law; and
- to recover the filing fee from the landlord for the cost of the application.

The landlord and both tenants attended the hearing on the first scheduled date, however hearing did not conclude and I adjourned the hearing to continue. My Interim Decision was provided to the parties at the conclusion of the first scheduled date, which also included a Notice of Adjourned Hearing setting out the telephone number and passcodes for the parties to use to access the continuation of the hearing.

The tenants attended the second scheduled date, however the line remained open while the telephone system was monitored for 10 minutes prior to hearing additional testimony, however no one for the landlord joined the call.

The tenants were assisted by an Advocate and an Interpreter on both scheduled dates. An observer, who did not take part in the hearing, but facilitated the Advocate and Interpreter was permitted to remain in attendance.

During the course of the first day of the hearing I determined that the landlord had not provided the tenants with any of the landlord's evidentiary material. Any evidence that the parties wish to rely on must be provided to the other party. Since the landlord has not done so, I decline to consider any of the landlord's evidence.

The tenants advised that all evidence was provided to the landlord, which was not disputed by the landlord. Therefore, all evidence of the tenants has been reviewed and all evidence relevant to the application is considered in this Decision.

One of the tenants gave affirmed testimony, and the tenants' Advocate was permitted to give submissions.

At the commencement of the second day of the hearing, the tenants' Advocate advised that due to the on-going issues with the tenancy, the tenants have vacated the rental unit, and withdraw the applications for an order that the landlord comply with the *Act*, regulation or tenancy agreement and for an order that the landlord provide services or facilities required by the tenancy agreement or the law.

Issue(s) to be Decided

The issues remaining to be decided are:

- 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 quiet enjoyment?
- Have the tenants established that rent should be reduced for repairs, services or facilities agreed upon but not provided, and more specifically for loss of laundry facilities?

Background and Evidence

The tenant (LJBC) testified that this fixed-term tenancy began on March 1, 2020 and expired on February 28, 2021 and the tenants vacated the rental unit at the end of April, 2022. Rent in the amount of \$1,200.00 was 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 \$600.00 which is still held in trust by the landlord, and no pet damage deposit was collected. The rental unit is a lower level suite in a house, and the upper level is also tenanted; the landlord does not reside on the rental property.

A copy of the tenancy agreement has been provided by the tenants for this hearing which specifies that free shared laundry is provided with the tenancy. The tenant testified that the landlord locked the door that gives access to laundry and blocked it from the other side. The tenant found the door locked on October 25, 2021 and asked the landlord by email to open the door, but received no response. On November 5, 2021 the tenant sent another email requesting the door be unlocked but again received no response. There is no laundry schedule between the 2 rental units, and it's very hard to negotiate with a landlord who wants \$300.00 more for rent and yells and screams.

The tenants' family has 4 members: the 2 tenants named in this application, a 6 year old child and a baby. It has been a very traumatic situation since this landlord took over; there was a former landlord at the beginning of the tenancy as well as former tenants in the upper level of the rental home.

The tenant had a high risk pregnancy and was in hospital for a month from August 14, 2021 to September 8 or 9, 2021 in Vancouver, and then in the Interior of BC until September 14, 2021. The tenants' family has suffered a level of stress, couldn't have dinner in peace because the landlord would show up and upset the family saying she was going to have people move the tenants out.

The landlord had issued notices to end the tenancy, and a hearing was held on February 5, 2022. A copy of the resulting Decision has been provided for this hearing which states that all notices to end the tenancy "issued thus far" are cancelled. The landlord issued another Two Month Notice to End Tenancy for Landlord's Use of Property, which was disputed and the hearing is scheduled for June 30, 2022.

The tenants were never able to enjoy the rental unit. The landlord sent messages to the tenants threatening them to leave and that if rent wasn't increased, the landlord would kick them out and their belongings. The landlord also said that if the tenants didn't leave by a certain date and time, the landlord had men that would help move the tenants' belongings. Frequently the landlord would visit the tenants in the morning without any notice, and again at dinner time. The landlord was never pleasant and would show up unexpectedly. The landlord also served the tenants with multiple notices to move out and never with a clear reason. One of the notices said that the owners were moving in, then another said that the house had sold; then another said that the house was being put on the market; and then that the tenants didn't qualify for subsidized housing, but the tenants never got a clear reason.

Every time the landlord showed up at the rental unit, she was very aggressive, and every time the landlord left, she would slam the door on her way out. That was traumatic for the tenants who come from a country with a lot of war, and the tenants expected a more peaceful environment living in Canada.

The tenant had a complicated and risky pregnancy during this time, and the stress increased the risk of losing the baby, requiring hospitalization for a month. Even though the landlord knew that, the landlord still sent multiple unpleasant messages about moving out. The tenant was always scared at home and spent a lot of time crying during the pregnancy; the tenant would turn off the lights and go to the bedroom with the door closed.

The tenant had a C-Section scheduled for October 28, 2021, however on October 5, 2021 the tenants received another notice from the landlord saying the tenants would have to leave the house. That caused a lot of concern due to the scheduled C-Section, and on October 12, 2021 the tenant was back in the hospital due to the stress the tenant was experiencing and as a result had an early labor. The baby was born on October 12, 2021 and the tenant remained in hospital for observation for 10 days after the baby was born. The baby needed the extra attention due to the premature birth, and the tenant was required to stay.

The tenants ultimately decided to move out and not challenge the last notice to end the tenancy given by the landlord, because the environment affected their mental health too much. The most important was security reasons; the tenant was fearful for herself and the family. Many times the landlord would threaten to remove the tenants from the house as well as the tenants' belongings and leave them on the street and stated that she didn't care what would happen to the tenants' belongings.

The landlord never tried to understand that a language barrier existed or that the tenants didn't speak English. On a few occasions when the tenant tried to communicate with a friend on the phone to interpret, the landlord would take the phone away and hang up the call. The landlord would then yell at the tenant and escalate the yelling because the tenant didn't understand what the landlord was saying.

It was incredibly difficult following the birth of the baby to travel constantly to do laundry. On multiple occasions the tenant sent text messages and emails and letters asking for laundry to be returned, but the landlord never responded. However, the day prior to the second date of this hearing, the landlord sent a text message to the tenant with rude language, such as "F___ you," and "F___ you off, bitch, I will get you and your husband

deported as he is working under the table for cash.” The message also stated that the security deposit would not be returned.

The tenants have provided 2 Monetary Order Worksheets, one of which claims amounts for commutes for laundry on October 28, 2021 and November 12 and 18 and 24, 2021 and December 1, 2021, as well as 3 months’ rent for loss of quiet enjoyment, for a total claim of \$3,840.00, in addition to the second Monetary Order Worksheet which claims \$4,229.98 for gasoline to commute to do laundry on December 7 and 29, 2021; January 5 and 12 and 28, 2022 and February 2, 8 and 14, 2022.

Receipts for gasoline have also been provided for this hearing.

SUBMISSIONS OF THE TENANTS’ ADVOCATE:

A lot of evidence has been provided by the tenants, including text messages and letters. The tenants tried to mitigate by educating the landlord with respect to the law and going through proper channels. The tenants did their due diligence to rectify the situation.

Analysis

I have reviewed all of the tenants’ evidentiary material, and I am satisfied that laundry was to be included in the rent. A landlord is not permitted by law to remove a facility that is material to the tenancy, and must give the tenants 1 month’s notice to remove a facility that is not material to the tenancy, and reduce rent accordingly. Although the tenants likely used the gasoline for other purposes, I find that the inconvenience to the tenants as a result of the landlord’s failure to provide laundry facilities is included. I find that the tenants have established a claim of \$4,469.98 for gasoline and the inconvenience.

A landlord may not enter a rental unit unless certain factors exist, such as being invited into the rental unit by the tenants at the time of entry or an emergency exists. In this case, I accept the undisputed testimony of the tenants that the landlord frequently let herself in, yelled at the tenants and threatened to have them on the street with their belongings. A tenant is entitled to quiet enjoyment of a rental unit, free from unreasonable disturbances. The landlord has obviously not allowed that to happen, and I find that the equivalent of 3 months rent for the term of the tenancy is reasonable, and I accept the \$3,600.00 claim.

Since the tenants have been successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee.

Conclusion

For the reasons set out above, 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 \$8,169.98.

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: May 31, 2022

Residential Tenancy Branch