

DECISION

Introduction

This hearing dealt with the Tenant's Applications for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- An order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, under sections 27 and 65 of the Act
- An order for the landlord to make repairs to the rental unit under sections 32 and 62 of the Act
- An order for the landlord to provide services or facilities required by law under section 27 of the Act
- An order to suspend or set conditions on the landlord's right to enter the rental unit under section 70(1) of the Act
- An order requiring the landlord to comply with the Act, regulation or tenancy agreement under section 62 of the Act
- Authorization to recover the filing fee for this application from the landlord under section 72 of the Act

The Tenant filed two applications which list the same issues in each application.

Preliminary Issue

- Landlord

The Tenant named TF and LD, who are the property managers (the "Property Managers"), in this application but did not include the Landlord GHL ("Landlord GHL"). The legal business name of Landlord GHL has been added to this application.

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

I find that the Landlords were served on July 11, 2023, in person in accordance with section 89(1) of the Act. The Tenant and a witness signed the Proof of Service form to confirm this service.

Service of Evidence

Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act. Property manger LD argued that several pieces of evidence were served late by the Tenant. The parties agreed that most of the late evidence, except what is considered photos from Facebook, is admitted into evidence. Both parties agreed the photos from Facebook would not be considered.

Based on the submissions before me, I find that the Landlords' evidence was served to the Tenant in accordance with section 88 of the Act.

Issues to be Decided

Is the Tenant entitled to an order to allow the Tenant to reduce rent for repairs, services or facilities agreed upon but not provided?

Is the Tenant entitled to an order for the Landlord to make repairs?

Is the Tenant entitled to an order for the Landlord to provide services or facilities required by law?

Is the Tenant entitled to an order to suspend or set conditions on the Landlord's right to enter the rental unit?

Is the Tenant entitled to an order requiring the Landlord to comply with the Act, regulation or tenancy agreement?

Is the Tenant entitled to recover the filing fee for this application from the Landlord?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on November 1, 2014 , with a monthly rent of \$1009.00 , due on the first of the month, with a security deposit in the amount of \$425.00.

The Tenant has filed an application and requested orders to deal with the lack of cleaning, unkept landscaping and pest and rodent problem outside and inside the residential building.

Reduce Rent for Repairs, Services or Facilities

The Tenant advised that they are not seeking a reduction in rent but compensation for loss of quiet enjoyment of \$1,380.00. The Tenant argued the uncleanness in the common area and unkept landscaping contributes to their depression and anxiety.

The Property Managers advised that they clean the common areas 3 to 4 times a week and maintain the landscaping on a consistent basis.

Repairs

The Tenant requested repairs be made including a broken window in the laundry room and landscaping. The Tenant advised that the window has been repaired and the landscaping was completed on July 8, 2023 and July 9, 2023. However, the Tenant argued that they want the landscaping to be done on a weekly basis.

The Property Managers advised that they maintain the lawn, weed whack and leaf blow on a weekly or biweekly basis. The Property Managers provided photos of the repairs to the windows and the current state of the landscaping.

Provide Services or Facilities

The Tenant argued that in the past a landscaper would come once a week to maintain and take care of the landscaping. The Tenant advised that there is nothing in the tenancy agreement that requires this but that this was the standard in the past.

The Property Managers argued that they take care of the lawn cutting, weed whacking and leaf blowing on a regular basis. They argued that usually this is done weekly or every two weeks. They advised that on some occasions if they are on vacation, it may not get done for a couple weeks because there is no one else to manage the property. The hedges and trees are taken care of by a landscaper and that is controlled by Landlord GHL. Property Manager LD advised that Landlord GHL had not hired someone for this in about 1 or 2 years. The Landlords provided photographic evidence of the current state of the landscaping.

The Tenant also argued that the cleaning in the common areas is not getting done. They advised there is cobwebs in the stairwells and that garbage sits outside. The Tenant provided photographic evidence of garbage left around the residential property.

The Property Managers argued the cleaning is done 3 or 4 times a week. They argued that the Tenant is not present to know what work is getting done and that the photos submitted by the Tenant are not an accurate representation of how the residential building looks on a consistent basis.

Tenant also asked for an order that Landlord GHL hire a licensed professional pest control company and provide all tenants with a copy of their report. The Tenant argued that the bait boxes being used to address the rat problem are not sufficient.

The Property Managers argued that there is no rat infestation and that rats are problematic in the entire downtown Langley area. They argued that have addressed the problem and have used bait boxes around the perimeter of the residential building. Additionally, any rental units that have reported a problem have been addressed and no new reports have been made about a rodent problem.

The Tenant also requested that Landlord GHL bring the canine inspection back. In previous years a spot check for bed bugs was done by a trained canine.

The Property Managers advised that they have not had any issues with bed bugs in years and the canine inspection was only for bed bugs.

Set Conditions on the Landlord's Right to Enter the Rental Unit

The Tenant advised that they are asking that Landlord GHL not be present when the landscapers come to work on the landscaping. The Tenant argued while the landscapers were working on July 8, 2023 and July 9, 2023, Landlord GHL would ask them to stop and move on to the next task.

The Property Managers argued Landlord GHL was there at the beginning to instruct the landscapers on the work that needed to be done. The landscapers worked on the property for 2 days.

Comply with the Act, Regulation or Tenancy Agreement

The Tenant argued that the Landlords are not complying with section 32 of the Act and that they have a responsibility to maintain health and safety. The Tenant argued that the landscaping and cleaning in the building is not maintained. Photographic evidence was provided by the Tenant and a document containing anonymous comments. Additionally, the Tenant argued there is a rat and wildlife problem that is not being properly dealt with.

The Property Managers argued that they have no reports of rats or mice inside any of the residential units. Additionally, they advised any report of mice or rats in the rental units is addressed right away and bait boxes are used, and steel wool is placed in any holes, as advised by a pest control company. They also have a yearly contract with a pest control company who maintains the bait boxes that are setup outside the residential building. The Property Managers provided copies of invoices to support this assertion. The Property Managers argue there is no evidence of a rat infestation. In the spring the Property Managers had an animal removal and prevention service company come to the property to assess for wildlife nests and none were found.

Analysis

Compensation

As stated above, the Tenant advised they are seeking compensation and not a reduction in rent.

Under section 67 of the Act, when a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. In this case, to prove a loss, the Tenant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Landlord in violation of the Act, Regulation or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and

4. Proof that the Tenant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The Tenant argued that the uncleanliness and unkept landscaping has contributed to their anxiety and depression. However, the Tenant has failed to provide any evidence to support that this damage or loss existed or of the actual amount required to compensate for this loss. As such, I decline to award the Tenant the compensation under section 67 of the Act.

Repairs

Both parties agree that the repairs the Tenant was seeking to the broken window and landscaping has been completed. As such, I decline to award an order that the Landlord complete the repairs. The Tenant's other requests will be addressed below.

Set Conditions on the Landlord's Right to Enter the Rental Unit

The Tenant advised at the hearing that they are not setting conditions on Landlord GHL's right to enter the rental unit but rather to address Landlord GHL's presence during landscaping work. I find that a landlord has the right to instruct and oversee the workers they have hired to work on the common areas. I dismiss the Tenant's claim to have conditions set on the Landlord's right to enter the rental unit.

Provide Services or Facilities

While the Tenant has provided photographic evidence of the landscaping and cleanliness, I find that these are photos of isolated incidents and do not show that the landscaping and cleanliness is the same for months or weeks. The photos are from a specific date and time where garbage is found, or landscaping is not completed. However, there is no evidence to show that for a period of months the landscaping looked the exact same or the garbage was left out for weeks. Additionally, I find that the landscaping and cleanliness is in line with the requirements under section 32 of the Act.

Furthermore, there is also nothing in the tenancy agreement or the law that requires a landlord to provide landscaping on a weekly basis. I dismiss the Tenant's request to have an order requiring the Landlord to complete landscaping on a weekly basis.

Since Property Manager LD stated in the hearing that the major landscaping had not been done for a year or two, I will caution the Landlords that the major landscaping should be maintained on a consistent basis to ensure safety and housing standards.

The Tenant has asked for the canine inspections to be returned; however, this is not a requirement under the tenancy agreement or law. Additionally, the Property Managers advised canine inspection is only for bed bugs which the residential building has not had an issue with for years. I decline to order canine inspections.

The Tenant also argued that there is a rodent problem and a professional licenses pest control company needs to be hired and a report needs to be completed. However, I find the Tenant has failed to establish that a rodent problem exists. There is insufficient evidence to support this claim. The Property Managers testified that they have addressed any rodent problems in the residential units and no new reports have been made. The rat problem is predominantly outside the residential building and the Property Managers have a contract with a pest control company and advise that bait boxes are placed around the perimeter of the residential building.

Based on the above, I dismiss the Tenant's application to have the Landlords provide services or facilities required by the tenancy agreement or law.

Comply with the Act, Regulation or Tenancy Agreement

I find that the Tenant has failed to establish that the Landlord has not complied with the Act, regulation or tenancy agreement. I find the landscaping and cleanliness in the building, complies with the health, safety and housing standards required by law. The Property Managers advised they clean the common areas 3 to 4 times a week and on a bi-weekly basis complete routine landscaping like lawn mowing, weed whacking and leaf blowing.

Is the Tenant entitled to recover the filing fee for this application from the Landlords?

As the Tenant was not successful in this application, the Tenant's application for authorization to recover the filing fee for this application from the Landlords under section 72 of the Act is dismissed, without leave to reapply.

Conclusion

I dismiss the Tenant's applications in their entirety, 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 Act.

Dated: October 11, 2023

Residential Tenancy Branch