Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 247591
Additional File(s):247651

In the matter of the *Residential Tenancy Act,* SBC 2002, c. 78., as amended

Between

PEMBERTON HOLMES LTD, Landlord(s),
Applicant(s)/Respondent(s)

And

s.22 **Tenant(s),**
Applicant(s)/Respondent(s)

Regarding a rental unit at: s.22 Rockland Avenue, Victoria, BC

Date of Hearing: September 20, 2012, by conference call.

Date of Decision: September 20, 2012

Attending:

For the Landlord: Allison Kernan

For the Tenant: s.22

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

INTERIM DECISION

Dispute Codes O
MNDC OLC RP PSF RR FF

Introduction

This hearing was convened to deal with cross Applications for Dispute Resolution filed by both the Landlord and the Tenants.

Background, Evidence and Analysis

At the outset of the hearing the parties were affirmed and confirmed receipt of evidence submitted by the other.

The Tenants indicated that the Landlord had arranged to have a roofer working today directly above their top floor unit so they may be distracted and unable to fully take part in the hearing.

Upon consideration of the noise level presented by the roofer continuously banging above the Tenants the parties agreed to adjourn the hearing and reconvene at a future time, for three hours, to ensure ample time is provided for each party to present the merits of their case.

Conclusion

No findings of fact or law have been made and the matters have been adjourned to be heard at a future date. A notice of a reconvened hearing accompanies this interim decision.

Both parties were advised that additional evidence will “not” be accepted or considered.

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: September 20, 2012.

L. Bell, Dispute Resolution Officer
Residential Tenancy Branch

Residential Tenancy Branch

RTB-136

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Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 247591
Additional File(s):247651

In the matter of the *Residential Tenancy Act,* SBC 2002, c. 78, as amended

Between

PEMBERTON HOLMES LTD (Agent) and SYLVIA MITBRODT (Owner), Landlord(s),

Applicant(s)/Respondent(s)

And

s.22 **Tenant(s),**

Applicant(s)/Respondent(s)

Regarding a rental unit at: s.22 Rockland Avenue, Victoria, BC

Date of Hearing: September 20, 2012 and reconvened on November 28, 2012, by conference call.

Date of Decision: December 03, 2012

Attending on Sept. 20, 2012:

For the Landlord: Allison Kernan, Property Manager (Landlord)

For the Tenant: s.22

Attending on Nov. 28, 2012:

For the Landlord: Allison Kernan, Property Manager (Landlord)

For the Tenant: s.22

DECISION

Dispute Codes O
MNDC OLC RP PSF RR FF

Preliminary Issues

During the course of this proceeding the Property Manager confirmed they were hired as Agent for the Landlord after the Owner attended the March 28, 2012 dispute resolution hearing which resulted in the Owner being issued repair orders.

Based on the aforementioned, I find the style of cause of these matters should be amended to include the Owner's name as Landlord and the property management company as Agent, pursuant with section *64 (3)(c)* of the *Act.*

The parties confirmed that the Tenants were served a notice of annual rent increase on April 28, 2012 for a rent increase to be effective August 1, 2012. Both parties acknowledged that they wished to amend their applications to obtain a determination of when the rent increase should be effective as neither party is sure of how the process should work given that a reduction in rent had previously been ordered.

Introduction

This hearing was convened to hear matters pertaining to cross applications filed by both the Landlord and the Tenants on September 20, 2012 and reconvened for the present session on November 28, 2012 for 165 minutes. This Decision should be read in conjunction with my Interim Decision of September 20, 2012.

The Landlord filed seeking an Order for other reasons requesting that the Tenants' rent be returned to the full amount as repairs were completed as ordered.

The Tenants filed seeking a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, and Orders to have the Landlord comply with the Act, regulation or tenancy agreement, make repairs to the unit, site or property, provide services or facilities required by law, allow the Tenants reduced rent for repairs, services or facilities agreed upon but not provided, and to recover the cost of the filing fee from the Landlord for their application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I

explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Has the Landlord met the requirements for repair Orders issued April11, 2012?
2. If so, should the rent reduction cease?
3. Should the Tenants be awarded Monetary Compensation?
4. Should the annual rent increase be enforced?

Background and Evidence

The parties confirmed that the Tenants and Owner attended dispute resolution on March 28, 2012 and that Dispute Resolution Officer (DRO) Holmes determined the following in her April 11, 2012 decision:

> *The rental unit is one of three suites in the top floor of the rental property. The rental property was built in 1912. This tenancy started on February 1, 2005. A copy of the tenancy agreement was provided in evidence. Rent was $900.00 at the beginning of the tenancy and is currently $1,081.00, due on the first day of each month. The Tenants paid a security deposit in the amount of $450.00 on January 2, 2005. A move-in Condition Inspection Report was signed by both parties on January 24, 2005, a copy of which was provided in evidence.*
>
> *These are **guidelines only** however, based on the Guidelines and the evidence provided, I find that the Landlord has not complied with Section 32 of the Act and **I hereby order the Landlord to comply with Section 32 of the Act** and:*
> - *Repair and paint the interior walls, ceilings and trim;*
> - *Replacing the hinge on closet door;*
> - *Tighten the loose kitchen tap;*
> - *Mount the smoke alarm to the ceiling;*

- *Have a professional mould inspector inspect the bathroom for mould and comply with any recommendations made by the mould inspection with respect to remediation. I also order the Landlord to provide the Tenants a copy of the mould inspectors report;*
- *make repairs to the seal around the fridge door;*
- *Re-grout in the kitchen and bathroom; and*
- *Repair the window latch arm.*

I order that the above mentioned repair and maintenance issues be completed by September 1, 2012.

Therefore I allow rent abatement in the amount equivalent to 10% of the monthly rent for the months of January, February, March and April for loss of quiet enjoyment of the rental unit, totaling ***$324.30.*** *I also allow a rent reduction in the amount of 10% per month,* ***$108.10****, until the repairs and maintenance set out above are completed and the Landlord is successful in an application to have the rent reduction stopped.*

In addition to the above Orders the Landlord submitted that they have also had the windows and chimney cleaned.

The Landlord submitted that all items listed above have been completed, as ordered, and they are requesting that the Tenants' rent reduction of $108.10 be cancelled and the rent be returned to the full amount.

The Tenants were in agreement that five of the eight repair items listed above were completed on or before July 30, 2012. They are of the opinion that the rent reduction should not stop because the following three items have not been completed in accordance with the Order:

1) *Repair and paint the interior walls, ceilings and trim;*
2) *Have a professional mould inspector inspect the bathroom for mould and comply with any recommendations made by the mould inspection with respect to remediation. I also order the Landlord to provide the Tenants a copy of the mould inspectors report;*
3) *Re-grout in the kitchen and bathroom*

Both parties submitted a substantial amount of documentary evidence which included, among other things, copies of: the April 11, 2012 decision, e-mails between the parties,

photographs, the mold inspection report, invoices for work performed, and written statements from professionals.

The Tenants argued that although the interior of the rental unit was painted it was not prepped or painted properly and therefore does not comply with the Act which requires the unit be maintained in a manner suitable for the age and character of the building. They noted that the interior of this heritage house has plaster walls and the painter whom was hired by the owner, was not experienced in repairing, prepping, and painting plaster, which they say is proven by the results they are left to live with. They pointed to their evidence which included a letter from a professional painter who inspected the rental unit and indicated that the unit had been painted with an acrylic paint without properly priming the walls. It further states that the unit appeared to have previously been painted with an alkyd based paint which requires priming prior to painting otherwise it results in the paint not sticking and peeling off the walls.

The Tenants noted that after the unit was painted they received a letter from the property management company which has caused them serious concern; specifically, when they consider the poor condition of the walls caused by the recent paint job. They worry about the following which was written in the letter issued by the property management company:

> *With the new fresh coat of paint been completed as per your request, any marks, odor or yellow staining will be expected to be touched up prior to the move out inspection.*

The Tenants stated that the company whom the Landlord hired to provide the mold inspection told them they were not mold inspectors. They confirmed that they are not seeking anything with regards to this issue as the mold was painted over. The Tenants advised that if the mold problem comes back they will deal with it at that time. They wanted it known that they feel it was not done in accordance with the Order. They confirmed that someone attended the unit and looked at the mold and then wrote the report as provided in the documentary evidence.

The Tenants acknowledged that the grout issue was resolved in the Kitchen area however the Landlord has not resolved the grout issue in the bathroom. They stated that initially the Landlord sent someone to just clean the bathroom grout which caused them to complain. Then a contractor came and repaired loose tiles and patched the bathroom grout. Shortly after the contractor completed his work they received an e-mail from the property management company on July 10, 2012 which indicated the bathroom tiles / grout were only patched and needed to be replaced. Now the Landlord is saying

the work was completed however the tiles have not been replaced and there is indication that they are beginning to crack.

As for the window cleaning, the Tenants stated they were not given notice that the exterior windows would be cleaned. They noted that they did not see anyone cleaning windows, nor did any other tenants, so they are questioning if the windows were actually cleaned.

The Tenants submitted that the chimney flues were cleaned from the inside of the rental unit; however, the contractors who did this work were not able to go up on the roof and clean the full chimney from the top down. They are concerned with a smell that is emanating from the chimney and argue that the Landlord did not comply with the order.

The Tenants stated they filed their cross application seeking compensation for loss of quiet enjoyment as a result of having to deal with the noise, interruptions, and mess caused by the contractors. The male Tenant argued that he felt forced to accept a contract for work outside of his home, due to the noise levels which have been occurring since late May 2012, s.22

s.22

The Tenants pointed to their evidence which included information pertaining to the mess left behind by the painter which took a professional cleaner over 11 hours to clean up. They confirmed that the Landlord reimbursed them for the cost of the cleaner however that did not compensate them for the loss of their quiet enjoyment in having to deal with the hassles caused from the painter and other contractors.

The Tenants are seeking an Order to have better hallway lighting after the Landlord moved the hallway light fixture. They are also seeking an asbestos inspection report now that the electrician has cut into the ceiling to move wires and the lighting fixture.

In response, the Landlord pointed to her evidence which included receipts for the work that has been performed prior to the last hearing, including the window cleaning. She noted that this was the first she heard of any concerns about the chimney cleaning and that she will follow up on this issue. The Landlord stated that she has tried to do her best and noted that she manages several properties so she may not be able to respond immediately to the Tenants' requests but she will respond in a timely fashion. She noted that she has worked very hard to get through their "big list" of requests.

A discussion took place at which point the Tenants brought up several other concerns with issues such as the method of communication and notices of entry not being served in person, etc. At this point I noted how it was evident to me that the parties have begun to allow their emotions fuel their interactions, creating an antagonistic relationship and sparking “unreasonable” demands. Both parties indicated that they wished to work to mend their relationship.

I reminded the parties of their obligations under the Act and advised that when bringing claims against the other party, the applicant bears the burden to prove the other is in breach of the Act.

The parties discussed how they wanted to work towards a more compatible working relationship. They worked out a mutual agreement pertaining to how they would communicate in the future which included e-mail communication and required responses for notices of access.

The parties requested clarification pertaining to when a notice of rent increase is applied in cases where a reduction of rent has been ordered, pending repair orders. They submitted that on April 28, 2012, the Tenants were issued a proper notice of rent increase of 4.3% ($46.48) raising their rent from $1,081.00 to $1,127.00 effective August 1, 2012. They had a previous rent increase that was effective July 1, 2011.

Analysis

In the April 11, 2012, the Tenants were granted a rent reduction until the Landlord completed eight repairs as Ordered and was successful in an Application for Dispute Resolution to have the **$108.10** rent reduction stopped.

Both parties confirmed that the following repairs have been completed in accordance with the aforementioned Order:

- *Replacing the hinge on closet door;*
- *Tighten the loose kitchen tap;*
- *Mount the smoke alarm to the ceiling;*
- *make repairs to the seal around the fridge door;*
- *Re-grout in the kitchen; and*
- *Repair the window latch arm.*

Notwithstanding the Tenant's argument that they were not informed that the exterior windows would be cleaned, I have reviewed the evidence which included the window cleaning invoice and I accept that the exterior windows were cleaned as submitted by the Landlord. I further find the chimneys were cleaned, from the inside of the unit, and that during the hearing the Landlord was informed that the chimney was not cleaned from the roof top and that an odour remains. I accept that the Landlord will investigate the alleged odor to determine a remedy.

The Tenants argued the following three items have not been repaired as Ordered:

- *Have a professional mould inspector inspect the bathroom for mould and comply with any recommendations made by the mould inspection with respect to remediation. I also order the Landlord to provide the Tenants a copy of the mould inspectors report;*
- *Re-grout in bathroom; and*
- *Repair and paint the interior walls, ceilings and trim;*

The Tenants confirmed that an inspection was completed and that they were provided a copy of the report. They disputed the authority or licensing of the person who conducted the inspection and advised that the mold was painted over so they were not seeking a remedy to this issue at this time. After careful consideration of the evidence before me I find there to be insufficient evidence to prove the Landlord has breached the Act, with regards to their compliance with the Order to have a mold inspection completed and provide the Tenants with a copy of the report. Accordingly, I find the Landlord has complied with the April 11, 2012 order to have a mold inspection completed.

The evidence supports that the bathroom tiles and grout have been cleaned and repaired and that the Landlord is aware that this may be a temporary fix which requires further action in the future. Based on the foregoing I find the Landlord complied with the April 11, 2012 Order to re-grout in the bathroom. Furthermore, I find there is insufficient evidence to prove the Landlord is in breach of the Act with respect to the condition of the bathroom tiles.

Section 32 of the Act stipulates that 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 [my emphasis added].

Notwithstanding the evidence that the Owner had someone paint the rental unit, I find the Owner/Landlord has not complied with the Order to *Repair and paint the interior walls, ceilings and trim* in accordance with section 32 of the Act. I make this finding, in part due to the evidence before me which I find proves the plaster walls were not repaired or properly treated with primer prior to painting. This improper or lack or preparation has now caused the condition of the walls to deteriorate further with the existence of paint that is not adhering to walls and is peeling off everywhere.

Based on the foregoing, I Order the rent reduction of **$108.10** to continue until the following Order(s) has been completed. I Order the Landlord to hire a **professional journeyman painter**, experienced in working with plaster walls, to properly repair, patch, prep, and paint the *interior walls, ceilings and trim* no later than **February 28, 2013**. I further order that the painter clean up after they have completed their work. I note that while the Tenants took it upon themselves to vacate the property during the previous painting, there is no evidence before me that would indicate the need to vacate the rental unit during an interior paint job.

When a tenant makes a claim for repairs the burden of proof lies with the applicant to establish that the respondent is in violation of the Act. The Tenants have sought orders to have the Landlord change the hallway lighting and have an asbestos inspection. After careful consideration of the evidence before me I find there to be insufficient evidence that would warrant such orders and the Tenants' requests are hereby dismissed.

The parties agreed the Tenants were issued an annual rent increase of $46.48 per month, in accordance with the *Act.* The Tenants submitted that they received advice which directed them to continue to pay only $972.90, the reduced rent of $1,081.00 - $108.10, ignoring the annual rent increase of $46.48 that was to be effective August 1, 2012; until the rent reduced was cancelled.

I accept that the Tenants were issued an annual rent increase that complies with the Act, which raised their rent from $1,081.00 to $1,127.00 effective August 1, 2012. I further find that such a rent increase is not void or suspended due to the April 11, 2012 Order to reduce rent by $108.10. Accordingly, I find the Tenants were responsible to pay the monthly rent of **$1,018.90** ($1,127.00 - $108.10) as of August 1, 2012. As the Tenants have not done so the Landlord is entitled to an award for past, unpaid rent of **$232.40** ($46.48 x 5 months August, September, October, November, and December 2012).

Section 28 of the *Act* states that a tenant is entitled to quiet enjoyment including, but not limited to, rights to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the *Act*; use of common areas for reasonable and lawful purposes, free from significant interference.

In many respects the covenant of quiet enjoyment is similar to the requirement on the landlord to make the rental units suitable for occupation which warrants that the landlord keep the premises in good repair. For example, failure of the landlord to make suitable repairs could be seen as a breach of the covenant of quiet enjoyment because the continuous breakdown of the building envelop would deteriorate occupant comfort and the long term condition of the building.

Residential Tenancy Policy Guideline 6 stipulates that "it is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises, however a tenant may be entitled to reimbursement for loss of use of a portion of the property even if the landlord has made every effort to minimize disruption to the tenant in making repairs or completing renovations."

I accept that the Owner took reasonable steps to minimize the negative impact to the Tenants by hiring a property management company to assist as mediator in getting the requested work completed.

The Tenants have sought $1,945.80 for loss of quiet enjoyment which includes $972.92 for having to deal with noise and harassing behavior from the painting contractor and Landlord; $486.45 for the two weeks in June they had to be out of the rental unit while it was being painted; and $486.45 for loss of enjoyment of the rental unit due to a foul smell coming from the main chimney.

s.22

s.22 which leaves on average, **2 ½ hours** of loss of quiet enjoyment each week during the days that work is being performed from mid May 2012 to July 30, 2012, approximately ten weeks.

As noted above, I find there to be insufficient evidence to prove the need to reside outside of the rental unit while it is being painted. I further find there to be insufficient

evidence to prove the Tenants informed the Landlord of their concerns about the manner in which the chimney was cleaned.

I do not accept the male Tenant's submission that he was forced to find or accept work outside of his home nor is that relevant as these matters pertain to a residential tenancy, not a commercial tenancy. Furthermore, I have no doubt that the unreasonable behaviour fuel by the emotions of all parties involved added to the Tenants' loss of quite enjoyment. Based on the foregoing, I hereby award the Tenants **$232.40** for loss of quiet enjoyment, the equivalent amount awarded to the Landlord for the unpaid rent increase.

Given the nature of these disputes, I decline to award either party recovery of their filing fee.

Conclusion

Effective August 1, 2012, the Tenants' rent has been increased to **$1,127.00** per month.

I HEREBY ORDER the Tenants' to continue to deduct **$108.10** from their monthly rent until the Landlord is successful in an application for Dispute Resolution to prove they have complied with the outstanding Order to have the interior of the rental unit walls repaired, prepped, and painted by a professional journeyman painter, no later than **February 28, 2013.**

To clarify, the Tenants are to pay $1,018.90 each month, as full payment of rent, ($1,127.00 – $108.10) until Ordered otherwise.

As each party has been awarded monetary compensation in the amount of $232.40, the orders cancel each other so no further action is required.

The parties mutually agreed to try to set aside their emotions in their attempts to rebuild their relationship while working with each in a more reasonable manner.

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: December 03, 2012.

L. Bell, Arbitrator
Residential Tenancy Branch

Residential Tenancy Branch

RTB-136

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Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 791034

In the matter of the *Residential Tenancy Act,* SBC 2002, c. 78., as amended

Between

s.22 **Tenant(s),**

Applicant(s)

And

JOHNNY YANG, Landlord(s),

Respondent(s)

Regarding a rental unit at: s.22 West 12th Avenue, Vancouver, BC

Date of Hearing: May 23, 2012, by conference call.

Date of Decision: May 24, 2012

Attending:

For the Landlord: Johnny Yang

For the Tenant: s.22

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes O

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant for other reasons pertaining to the Landlord denying or withholding the service of visitor parking.

The parties appeared at the teleconference hearing, acknowledged receipt of hearing documents and evidence; and gave affirmed testimony. During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Have the parties agreed to settle this matter?

Background and Evidence

The parties agreed they entered into a fixed term tenancy agreement that began on November 1, 2011 and is set to switch to a month to month tenancy or another fixed term after October 31, 2012. Rent is payable on the first of each month in the amount of $2,000.00 and on October 3, 2011 the Tenant paid $1,000.00 as the security deposit. The Tenant signed the Strata form K and was given a copy of the Strata Rules.

During the course of the hearing the parties agreed to settle this matter.

Analysis

The parties agreed to settle this matter on the following terms:

1) The Landlord agrees to give the Tenant the visitor parking pass; and
2) The Tenant agrees that he will not park any of his personal vehicles in the visitor parking stalls; and
3) The parties agree to enter into a written tenancy agreement addendum that states:

The Tenant will be provided a visitor parking pass which is to be used for

visitor parking only. The Tenant agrees not to park any of his personal vehicles in the visitor parking stalls and understands that by doing so will be a violation of the Strata rules. The Tenant agrees that he will pay all fines issued as a result of a breach of the Strata Rules. This agreement is a material term of the tenancy agreement and if violated will be cause for the Landlord to end this tenancy; and

4) The parties will sign and date the agreement upon delivery of the visitor parking pass to the Tenant; and
5) The parties agree to meet to complete this agreement no later than May 31, 2012.

Conclusion

The parties came to a mediate settlement agreement, as noted above, in accordance with section 63 of the *Residential Tenancy Act*.

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 24, 2012.

L. Bell, Dispute Resolution Officer
Residential Tenancy Branch

Residential Tenancy Branch

RTB-136

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Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 793905

In the matter of the *Residential Tenancy Act,* SBC 2002, c. 78., as amended

Between

FORT PARK PROPERTY MANAGEMENT , Landlord(s),

Applicant(s)

And

s.22 **Tenant(s),**

Respondent(s)

Regarding a rental until at: s.22 4th Street, New Westminster, BC

Date of Hearing: July 31, 2012, by conference call.

Date of Decision: August 02, 2012

Attending:

For the Landlord: Nick (Miklos) Kovacs, Owner
Joel Murdoch, Property Manager

For the Tenant: s.22

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ARI

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order to allow an additional rent increase.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the Landlord be granted an Order to allow an additional rent increase above the legislated amount?

Background and Evidence

The parties agreed the Tenant has occupied the rental unit since September 2004 which is when she began employment with the previous owner, as the resident manager of the building. Rent is payable on the first of each month in the amount of $600.00 and there was no deposits required. A new tenancy agreement was signed for a month to month tenancy that became effective January 1, 2010.

The current property owner affirmed that s.22 owned the property at the time the Tenant was hired on to be the resident manager. s.22 s.22 s.22 He then became owner and the Tenant continued to be employed by him from January 1, 2010 to October 31, 2011 when he decided to end the Tenant's employment and hire a professional property manager. He stated that the rent has

always been $600.00 per month from September 2004 onward and there have been no notices of rent increase issued to date.

The Landlord submitted a coiled package into evidence which included numerous, un-numbered pages of documents. This submission included among other things a written submission; photos of the Tenant's unit and of unit # 7 of the same building, some internet advertisements of units in the same municipality, the tenancy agreement, and a brief description of the size and current rents being charged from the 8 units in the building.

The Tenant submitted eight pages of documents which included copies of: her written statement, a receipt, the October 15, 2011 termination letter, a reference letter dated July 26, 2011, and her contract for employment dated December 19, 2009.

The property manager affirmed that the Tenant's unit is a two bedroom unit approximately 800 square feet and is the largest unit located in a heritage home which has eight self contained units. Her unit was fully renovated prior to his employment as property manager and he noted that the finishes used were of a higher end product as they knew it would be occupied by the manager. The tenancy agreement currently includes all utilities, free laundry separate from the paid laundry room, storage separate from the other unit's storage areas, a newly constructed 8' x8' deck, and full use of a sun room.

The owner confirmed the Tenant's unit was renovated in the spring of 2004 with high end finishing. He stated that s.22 had decided to put more money into unit # 1 because if they ever decided to sell the building unit #1 would be suited for an owner to occupy it. The owner advised the previous deck had been removed prior to 2004 and it was always their intention to build a replacement; however that work did not happen until recently. The washer and dryer were pre-existing and located in the utility room with the electric panel and hot water tank. Now that the Tenant is no longer the manger they are no longer wanting to grant her access to the utility room and want her to use the coin operated washer and dryer which are located in the newly constructed laundry room which the other tenants now use. He also noted that the electricity for the Tenant's unit is currently on the same meter as all of the common area electricity such as outside lights. The power meter is currently in the process of getting changed so that a separate electricity meter will be installed to cover only unit #1's power usage.

The property manager pointed to their evidence and photographs to support his testimony that the unit which is most comparable to unit # 1 in this building is unit # 7. He noted that unit # 7 was rented in January 1, 2010 for the monthly rent of $785.00 which is $250.00 less than the Tenant currently pays in unit # 1. He also pointed to the remaining six units which range in size from 280 sq feet up to 400 sq ft with rents from $525.00 to $700.00. The length of these tenancies was not provided. He also noted that the calculations of rent charged in this building based on square footage range from the Tenant's unit at $0.75 per sq foot to up to $2.00 per sq foot.

The property manager turned to the internet advertisements provided in their evidence and spoke to four of the listings. He noted how they were all in the same municipality. He stated that several were located inside heritage houses, such as the Tenant's unit, and were all charging a higher rent. He noted the square footage of these advertised units and pointed to certain characteristics noted in each one.

I asked how the property manager determined these units advertised on the internet were similar to the Tenant's unit. He stated that he saw the photos which were posted on the internet and they appeared similar to him. I then asked which specific geographic areas he was looking at and he confirmed he was considering the entire municipality. He noted that they all were located in a residential section, close to shopping malls; major city venues, transportation, and some were in heritage buildings. He confirmed that they did not provide a map of the location and did not submit evidence to support which amenities were close to the sample units and the unit in question.

The Tenant argued that her unit was not recently renovated as the renovations were done in 2004. She also stated that her unit was renovated using the same quality of materials as the other units, just different colors or patterns. She confirmed that while the bathtubs are similar the one in her unit has powered jets while the other units do not. She advised that the building does not have heritage status and is categorized as a six unit building but actually has been split off into eight units.

The Tenant submitted that her unit is not a two bedroom unit as the second room does not have a closet and therefore it must be considered a one bedroom plus a den. She has lived in the unit with the danger of not having a deck with the patio doors leading to a six foot drop for eight years. The doors were never sealed off because there was the promise that the deck would be built one day. She stated that she does not know the square footage of her unit and thinks it may only be around 700 square feet.

The Tenant asserted that the recent renovations never included or involved her unit. She noted that the new storage area includes only 7 storage spaces as her unit utilizes the crawl space for storage. She is of the opinion that the crawl space cannot be considered proper storage because she cannot stand erect in the crawl space as is provided in other storage units. She noted that her unit was not taken into consideration when they installed the laundry room as they only installed one washer and two dryers for seven units to use. She has had access to the private washer and dryer from the beginning of her tenancy and does not see any reason why this should change.

The Tenant argued that unit # 7 is not comparable to her unit. She confirmed that after being resident manager for eight years she has full knowledge of the other units and she would consider unit #6 as a closer comparable to her unit than # 7. She noted how unit # 6 is larger than # 7, has been fully renovated, has hardwood floors, and was updated in 2004 with the same quality of materials, just different colors.

In closing the Tenant stated that she believes her current rent of $600.00 is a fare rent considering she managed this property for eight years having her rent as a taxable allowable benefit. Now she is faced with being unemployed and having to pay the monthly rent. She questioned where the Landlord would have to draw the line and said she believes her rent should remain at $600.00 with the legislated rent increase which is being imposed on other units.

The owner confirmed they have not applied for additional rent increases for any of the other units. The owner and property manager confirmed that although their testimony included a lot of information about current renovations to the building they are seeking the additional rent increase based on the Tenant's rent being below market value and not recovery of renovation costs.

Analysis

The Landlord has attempted to seek Orders to allow them to reduce services (laundry, electricity, storage) provided to the Tenant with their application for an additional rent increase. I explained to the Landlord that these items cannot be combined and I pointed them to section 27 of the Act for further information. I have copied section 27 of the Act to the end of this decision and I encourage the parties to seek further guidance through the *Residential Tenancy Branch* if need.

The Landlord has made application for an additional rent increase pursuant to Section 43(3) of the Act and section 23(1) of the regulation. Section 23 (1) (a) of the regulation provides that a landlord may apply under section 43 (3) of the Act *[additional rent increase]* if after the rent increase allowed under section 22 *[annual rent increase]*, the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit.

The burden of proof of the market value rent lies with the Landlord who has to meet the **high statutory requirement** of proving that rent being charge for similar units in the same geographic area are significantly higher than the Tenant's rent. Section 37 of the *Residential Tenancy Policy Guideline* # 37 stipulates that:

- An application must be based on the projected rent after the allowable rent increase is added; and
- Additional rent increases under this section will be granted only in **exceptional circumstances**; and
- "Similar units" means rental units of comparable size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community; and
- The "same geographic area" means the area located within a reasonable kilometer radius of the subject rental unit with similar physical and intrinsic

> characteristics. The radius size and extent in any direction will be dependent on particular attributes of the subject unit, such as proximity to a prominent landscape feature (e.g., park, shopping mall, water body) or other representative point within an area.

In this case the current monthly rent is $600.00 and after the 2012 rent increase of 4.3% allowed under the Regulation is applied the monthly rent would be **$625.80**.

When determining the existence of exceptional circumstances it is not sufficient for a landlord to base their claim that the rental unit has a significantly lower rent that results simply from the landlord's recent success at renting out similar units at a higher rate. To determine the exceptional circumstances I must consider the relevant circumstances of the tenancy, the duration of the tenancy, and the frequency and amount of rent increases given during the tenancy. It is not exceptional circumstances if a landlord fails to implement an allowable rent increase.

In this case the Tenant has never been issued a rent increase in this eight year tenancy from 2004 to 2012 because rent was previously considered a taxable allowable benefit because the Tenant was employed by the Landlord. Therefore, I accept that in this case rent has been kept artificially low and there is evidence to prove that the circumstances in this case are exceptional.

For examples of similar units the Landlord relies on unit # 7 as a similar unit to the Tenant. The Tenant refuted unit # 7 being similar to hers and noted that unit #6 was much more similar to her unit in decoration and style however it was still much smaller than her unit.

The Landlord has relied on computer advertisements to establish that the Tenant's rent is below market value. The Landlord could not provide testimony as to the exact location of each comparable unit submitted in evidence. The Landlord noted that he was looking for examples anywhere in the municipality.

As noted above, *Residential Tenancy Policy Guideline* # 37 indicates that when determining what a similar unit is, I must consider units of comparable: size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community.

Notwithstanding the Landlord's submission that some of the comparable units are located in heritage homes, there is insufficient evidence to support that these units are units in the same geographic area; of similar construction; similar interior and exterior ambiance (including view); similar sense of community; and similar size and age (of unit and building).

Conclusion

The Landlord has not met the high standard of proof required to prove what the current market value rent is of similar units that are located in the same geographic area as the Tenant's unit. Therefore I DISMISS the Landlord's application.

The Landlord is at liberty to issue the required 3 month notice, on the prescribed form, if he wishes to increase the Tenant's rent in accordance with the legislated amount for 2012 at 4.3 %.

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: August 02, 2012.

L. Bell, Dispute Resolution Officer
Residential Tenancy Branch

Terminating or restricting services or facilities

27 (1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.rto.gov.bc.ca) has information about:

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  Fact Sheet RTB-103: *Landlord: Enforcing an Order of Possession*
- How and when to enforce a monetary order:
  Fact Sheet RTB-108: *Enforcing a Monetary Order*
- How and when to have a decision or order corrected:
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  Fact Sheet RTB-100: *Review Consideration of a Decision or Order*
  (Please Note: Legislated deadlines apply)

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- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 793925

In the matter of the *Residential Tenancy Act,* SBC 2002, c. 78., as amended

Between

LYNN AQUILAS JOSEPH WILCOTT, Landlord(s),

Applicant(s)

And

s.22 **Tenant(s),**

Respondent(s)

Regarding a rental unit at: s.22 West 12th Ave, Vancouver, BC

Date of Hearing: August 09, 2012, by conference call.

Date of Decision: August 09, 2012

Attending:

For the Landlord: Lynn Wilcott

For the Tenant: s.22
Arsad Alex Baria, Legal Advocate

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RI

Introduction

This hearing dealt with an Application for Dispute Resolution by the Landlord to obtain an Order to allow an additional rent increase because the Tenant's current rent plus the allowable 4.3% increase is lower than comparable units or sites.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally, respond to each other's testimony, and to provide closing remarks. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

1. Should the Landlord be granted an Order to allow an additional rent increase?

Background and Evidence

The parties agreed that they currently have a month to month tenancy that began on December 1, 2006. Rent is payable on the first of each month in the amount of $825.00 and the Tenant paid $412.50 as the security deposit. The rent has remained at $825.00 per month since the onset of the tenancy.

The Landlord submitted copies of 9 advertisements which were printed off of the internet which he stated were samples of similar units to that of the Tenant's unit. He confirmed that he is seeking a total of 18.18% increase to bring the Tenant's current rent of $825.00 up to $975.00 per month.

The Landlord advised that the Tenant's unit is located in a 100 year old building that was originally built as a single family home and was turned into a multi unit complex with eight units sometime in the late 1950's or early 1960's. There are some small bachelor suites, 1 bedroom units, and one 2 bedroom unit located in the basement. The Tenant has a 1 bedroom unit on the main floor which is above ground with windows on three sides. He noted that as tenants move out he usually increases the rent for the new tenants. Currently there is one family who has resided at the building longer than the Tenant and they agreed to a 20 % rent increase whereas the Tenant did not agree to her proposed rent increase.

The Landlord asserted that his evidence provided samples of similar units that are: currently for rent in the same neighbourhood and; which mostly do not allow pets; however, this Tenant is allowed pets which is an added feature. He noted that the average rent for the sample units is $1,230.00 which was calculated by adding the nine rents and dividing them by nine. He acknowledged that the Tenant's rent has never been increased. He stated that he is not requesting that the rent be raised to the average of $1,230.00 rather he is seeking only $975.00 because he has taken the Tenant's current financial situation into consideration.

The Tenant submitted evidence which included numerous original photographs and 37 pages which included printed advertisements, photos, and her typed statement. The Tenant grouped her evidence into the following five sections: (A) direct responses to the examples provided by the Landlord; (B) photos and descriptions of the building in which the Tenant's unit exists; (C) examples of units for rent that are similar to the type of examples provided by the Landlord which are currently advertised for rents that are similar to the Tenant's rent; (D) examples with photos of two units that are within two blocks of the Tenant's unit; and the Tenant's written summary.

In summary the Tenant asserted that the Landlord's examples should not be considered as comparables because her unit is not the same as an apartment or a basement suite. She submitted that she provided similar examples of apartments and basement suites to prove that there are some available in her area for a much lower rent than the examples provided by the Landlord.

The Tenant advised that she went to each address provided as examples by the Landlord and noted how her photographic evidence supports that these units have a higher standard of maintenance; have better kept exterior and common areas; and provided different amenities than her unit such as balconies, private storage, bike, storage, newer floors, in suite laundry, underground parking, dishwashers and a garberator. She argued that because her building used to be a single family dwelling the

electrical system is connected throughout various units so if a tenant in another suite blows a breaker her electricity is affected; whereas in apartments they have separate electrical panels. She also noted that these units often have onsite caretakers, which her unit does not, and they are not all located on a busy street as her unit is.

When describing her unit the Tenant pointed to the photos provided in her evidence and stated that her building has rotting wood, peeling paint, walkways which are not level, dirty stairs, lawn needing upkeep, and the interior common areas and washroom display peeling paint, mold, exposed nails, old frayed carpet, and the overall area is dirty. As for location, the Tenant submitted that her unit is located on a very busy street which is also used as the emergency corridor so there are sirens and emergency vehicles on this street 24 hours per day.

The Tenant asserted that there were two buildings in her neighbourhood that could be considered comparables as they are located within two blocks of her unit. She advised that she spoke with the managers of both buildings and was allowed to photograph the exterior and interior common areas. She pointed to these photos in evidence and noted that these two buildings are of similar age, were built as single family homes and changed into multi unit buildings with bachelor and one bedroom suites. She noted that the photos support that these buildings are in a much better state of upkeep and cleanliness than her building. She said she was told that rent is currently charged between $725.00 and $900.00 for a 1 bedroom unit in these comparable buildings which she asserts proves that her rent of $825.00 per month is reasonable.

The Tenant argued that at the outset of her tenancy the Landlord verbally agreed that she would never have a rent increase as long as she resided there. She stated that this agreement was made in exchange for her assisting the Landlord by putting up notices and delivering messages to other tenants and for letting contractors or workers into the building.

The Landlord dined having a verbal agreement with the Tenant about never raising her rent. He agreed that the Tenant's unit does not really compare to apartment buildings or basement suites. He noted that the Tenant's unit is quite large, 750 sq ft, with a full kitchen and windows on three sides of the building. He argued that the Tenant's examples were of much smaller units and most did not allow pets. He confirmed that the building is old and does require a fair amount of maintenance however he has recently had some major repairs completed such as the boiler and a new roof. He argued that the majority of the Tenant's examples cannot be used as comparables because they are much smaller and most do not allow pets; therefore he is of the opinion that the proposed increase is justified

In closing, the Tenant argued that the Landlord's examples cannot be used as comparables as they are not on a busy street and have numerous amenities that her unit does not have such as: balcony, bike storage, dishwasher, garberator, individual storage, and are all much cleaner and better maintained. She argued that although the two buildings she submitted within two blocks of her unit may be considered comparable it must be noted that they are in much better condition and charge similar rents to what she is currently paying.

Analysis

The Landlord has made application for an additional rent increase pursuant to Section 43(3) of the Act and section 23(1) of the regulation. Section 23 (1) (a) of the regulation provides that a landlord may apply under section 43 (3) of the Act *[additional rent increase]* if after the rent increase allowed under section 22 *[annual rent increase]*, the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as, the rental unit.

The burden of proof of the market value rent lies with the Landlord who has to meet the high statutory requirement of proving that rent being charge for similar units in the same geographic area are significantly higher than the Tenant's rent. Section 37 of the *Residential Tenancy Policy Guideline* # 37 stipulates that:

- An application must be based on the projected rent after the allowable rent increase is added; and
- Additional rent increases under this section will be granted only in **exceptional circumstances**; and
- "Similar units" means rental units of comparable size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community; and
- The "same geographic area" means the area located within a reasonable kilometer radius of the subject rental unit with similar physical and intrinsic characteristics. The radius size and extent in any direction will be dependent on particular attributes of the subject unit, such as proximity to a prominent landscape feature (e.g., park, shopping mall, water body) or other representative point within an area.

In this case the current monthly rent is $825.00 and after the 2012 rent increase of 4.3% allowed under the Regulation is applied the monthly rent would be **$860.47**.

When determining the existence of exceptional circumstances it is not sufficient for a landlord to base their claim that the rental unit(s) has a significantly lower rent that results simply from the landlord's recent success at renting out similar units at a higher rate. To determine the exceptional circumstances I must consider the relevant circumstances of the tenancy, the duration of the tenancy, and the frequency and amount of rent increases given during the tenancy. It is not exceptional circumstances if a landlord fails to implement an annual allowable rent increase.

In this case the Tenant has never been issued a rent increase and has argued that the Landlord made a verbal agreement with her that rent would never be increased as long as she resided there. The Landlord has denied entering into this verbal agreement.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails. In this case, the Tenant has argued the existence of a verbal agreement which the Landlord denied. Accordingly, the only evidence before me was disputed verbal testimony which I find insufficient to prove the existence of such an agreement.

As per the foregoing, the Tenant's rent has never been increased simply because the Landlord has made no effort to increase the rent. Therefore, I find no basis to indicate rent has been kept artificially low nor is there evidence to prove that the circumstances in this case are exceptional.

For examples of similar units the Landlord relies on nine samples of apartments and basement suites recently advertised for rent. The Landlord submitted that these units are located within the Tenant's neighbourhood however there is no evidence to indicate their proximity to the Tenant's unit or their proximity to any prominent landscape features such as parks, shopping mall, or water. Although some of the listings indicate the units are close to the water, there is insufficient evidence to support if the Tenant's unit is as close.

Notwithstanding the Landlord's submission that the Tenant's unit is approximately 750 sq feet and is larger than some of the examples she submitted, I accept the Tenant's argument that the Landlord's evidence did not include units that could be considered similar or comparable to her unit as they were apartments and/or basements suites. I further accept the Tenant's submissions that although the two buildings which are located within two blocks of her unit are of similar construction or structure (older single family homes turned into multi unit buildings), they are much cleaner and are of a standard of repair and maintenance that exceeds that of the building in which her unit is located.

Based on the aforementioned, I find there to be insufficient evidence to meet the high standard of proof required to prove the presence of exceptional circumstance or that the Tenant's rent is lower than comparable units which are located in the same geographic area. Accordingly, I find the Landlord's application must fail.

Conclusion

The Landlord has not met the burden of proof required for an additional rent increase. Therefore I DISMISS the Landlord's application.

The Landlord is at liberty to issue the required 3 month notice, on the prescribed form, if he wishes to increase the Tenant's rent in accordance with the legislated amount for 2012 at 4.3 %.

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: August 09, 2012.

L. Bell, Dispute Resolution Officer
Residential Tenancy Branch

Residential Tenancy Branch

RTB-136

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Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 800303

In the matter of the *Residential Tenancy Act,* SBC 2002, c. 78, as amended

Between

YVONNE RUTH HARWOOD, Landlord(s),

Applicant(s)

And

s.22 **Tenant(s),**

Respondent(s)

Regarding a rental unit at: s.22 Kestrel Drive, Richmond, BC

Date of Hearing: December 19, 2012, by conference call.

Date of Decision: December 27, 2012

Attending:

For the Landlord: Yvonne Harwood

For the Tenant: s.22

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ARI

Introduction

This hearing dealt with an Application for Dispute Resolution filed by the Landlord October 29, 2012 to obtain an Order to allow an additional rent increase.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the other and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the Landlord be granted an Order to allow an additional rent increase?

Background and Evidence

The parties confirmed that the Tenant has occupied the unit with his former spouse since August 1, 1993. Rent started at $850.00 per month and was increased to $875.00 as of March 1, 1999. The Tenant remained in the unit and entered into a subsequent tenancy which began on April 1, 2000 for $875.00 per month. The Rent has been increased three times since and the current monthly rent is payable in the amount of $1,076.40. The original security deposit of $450.00 from August 1, 1993, was transferred to the existing tenancy.

The Landlord has applied for an additional rent increase for the reason that the Tenant's rent is below market value. She is seeking to raise the Tenant's rent from $1,076.40 to $1,500.00 per month. The Landlord submitted 74 pages of documentary evidence which

included, among other things, copies of: her written statement; advertisements printed from the internet of rental units; maps of the area; a schedule of rents for the fourplex; several tenancy agreements for other units in the complex; cost increases from 2002 to 2012; the floor plan of the fourplex; a record of the Tenant's rent increases; and a list of improvements to the rental unit complex since the Landlord purchased the property.

The Tenant submitted 11 pages of documentary evidence which included, among other things, copies of: his identification; a pay stub; and internet advertisements for rental units.

The Landlord advised that the rental fourplex is approximately thirty years old and is located in a prestigious, highly sought after, subdivision which has underground services, a large lot and an open parking pad area. The property is within walking distance to an elementary school and a historical village. The rental unit is an upper unit in a fourplex (2 upper and 2 lower units). The Tenant's unit is 1,318 sq, with 3 bedrooms, 2 full baths, has an open parking area, and has access to the shared laundry. The tenancy agreement allows for pets and rent does not include utilities.

The Landlord stated that she provided samples of units that were primarily located in the same geographic area, are either a duplex or fourplex unit, and are 3 bedroom units with similar facilities. She noted that she provided information pertaining to two units that were significantly similar to the Tenant's unit as follows:

1) The identical unit next door in the same fourplex which has been rented for several years at $1,500.00 per month and
2) A unit down the street which is drawing $1,420.00 per month. The owner provided the information via e-mail to the Landlord.

The Landlord stated the following were the reasons why the Tenant was not issued rent increases for several years:

- The Tenant had made the Landlord aware of s.22 s.22 during that time so the Landlord was being accommodating by not increasing his rent and adding to s.22 and
- Two years ago the Tenant informed the Landlord the s.22 s.22 and the rental unit was not large enough so he would eventually be giving notice to end his tenancy; and

- The Land waited for the notice to end tenancy but the Tenant never ended the tenancy so she attempted to discuss a rent increase with the Tenant but he never responded to her requests.

The Tenant advised the unit was built in 1978. He confirmed that the two most important or significant comparables provided by the Landlord were the unit next door and the one down the street as the Landlord stated. He argued that the unit next door commands a higher rent because it has been updated with hardwood in the entrance and recent paint and other upgrades. The unit down the street is only seeking $1,420.00 for the upstairs unit and a much lower rent of $900.00 in the downstairs unit. He was not able to get inside either unit to see the actual condition however he said the amount being charged for rent should explain the condition of the inside of the unit.

The Tenant browsed through the rest of the Landlord's comparables and noted in cases where there were garages, different flooring, upgrades in the appliances, or utilities included. He argued that his carpet is old and needs replacing and his unit has only been painted once in twenty years.

The Landlord pointed to the list of improvements in evidence which she had completed at the rental property since owning it. She confirmed that she has upgraded the other units while they were vacant and that the Tenant's carpet is old. However, he has never requested upgrades be completed to his unit and it is packed so full of possessions that there is no way they could work around them to install new carpet. Throughout his tenancy she had completed repairs when he asked, for example, she installed a new dishwasher, taps, and painted the unit in 2002. She argued that he only occupies the unit part time and that the upgrades are just cosmetic and do not change the use of the unit.

Upon review of the Tenant's evidence he confirmed that most of his comparables were two bedroom units and not three bedrooms. He said he submitted two bedroom samples because the Landlord did. He reviewed the three bedroom samples he provided and stated one was only 1 mile north east for $950.00 per month and the other was about 2 ½ miles east of his rental unit and only $1,100.00.

The Landlord refuted the Tenant's statement and argued his two samples of 3 bedroom units were nowhere near his unit and they were not units in a fourplex. One was considerably north, about three miles, while the other was 3 miles north and 3 miles east and both are in a completely different neighbourhood.

In closing, the Tenant stated that he would not be able to afford the rental unit if the rent was increased. The Landlord submitted that $1,500.00 is a fair rent and is not excessive, as supported by the fact that the unit next door has been rented at $1,500.00 for several years during different tenancies.

Analysis

After carefully considering the aforementioned and the documentary evidence submitted by the Landlord I make the following findings based on a balance of probabilities:

The Landlord has made application for an additional rent increase pursuant to Section 43(3) of the Act and section 23(1) of the regulation. Section 23 (1) (a) of the regulation provides that a landlord may apply under section 43 (3) of the Act *[additional rent increase]* if after the rent increase allowed under section 22 *[annual rent increase]*, the rent for the rental unit is significantly lower than the rent payable for other rental units that are similar to, and in the same geographic area as the rental unit.

The burden to prove market value rent lies with the Landlord who has to meet the high statutory requirement of proving that rent being charge for similar units in the same geographic area are significantly higher than the Tenant's rent. Section 37 of the *Residential Tenancy Policy Guideline* # 37 stipulates that:

- An application must be based on the **projected rent** after the allowable rent increase is added; and
- Additional rent increases under this section will be granted only in **exceptional circumstances**; and
- **"Similar units"** means rental units of comparable size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community; and
- The **"same geographic area"** means the area located within a reasonable kilometer radius of the subject rental unit with similar physical and intrinsic characteristics. The radius size and extent in any direction will be dependent on particular attributes of the subject unit, such as proximity to a prominent landscape feature (e.g., park, shopping mall, water body) or other representative point within an area.

Projected rent - In this case the current monthly rent is $1,076.40 and after applying the 2013 rent increase of 3.8% allowed under the Regulation the Tenants' monthly rent will be **$1,117.30**.

Exceptional circumstances - To determine the exceptional circumstances I must consider the relevant circumstances of the tenancy, the duration of the tenancy, and the frequency and amount of rent increases given during the tenancy.

Upon review of the evidence I find it supports that in this case rent was ultimately kept artificially low in part, due to the fact the Tenant has occupied the unit for over nineteen years. I accept the Landlord's submission that she did not want to increase the rent substantially when the Tenant entered into a new tenancy in 2000 because the Tenant s.22

The evidence indicates the Tenant was issued only four rent increases during the last twelve years bringing the rent from $875.00 to $1,076.40. I accept the evidence that the Landlord attempted to work with the Tenant to increase the rent over the past two years but that he continued to stall by first stating s.22 then stating he was going to be providing her with notice to end the tenancy, and more recently by avoiding to respond to her requests to discuss an increase.

After consideration of the aforementioned, I find there is exceptional circumstances in this case which have kept the Tenant's rent lower than market value.

Similar units – In determining market value rent section 23 (1) of the Regulation stipulates that I must consider if the Tenant's projected 2013 rent is significantly lower than the rent payable for other rental units that are ***similar*** to the Tenants' unit [emphasis added].

Funk & Wagnalls Standard College Dictionary (1974) defines "similar" as:

1. *Bearing resemblance to one another or to something else; like,* ***but not completely identical*** [emphasis added];
2. *Of like characteristic, nature, or degree; of the same scope, order or purpose.*

Funk & Wagnalls Standard College Dictionary (1974) defines "identical" as:

1. *One and the same; the very same*
2. *Alike or equal in every respect*

Black's Law Dictionary Seventh Edition (1999) defines "comparable" as:

> *A piece of property used as a comparison to determine the value of a similar piece of property.*

As noted above, *Residential Tenancy Policy Guideline* # 37 indicates that when determining what is a similar unit I must consider units of comparable size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community.

I find that in order to determine market value rent of the Tenant's unit I must consider rents currently being charged for other units in the same geographic area while comparing the other unit's size, age (of unit and building), construction, interior and exterior ambiance (including view), and sense of community and considering all similarities and differences.

In cases where the units are similar in some areas and not others consideration will be given based on the following reasonable person test and balance of probabilities: (a) if two units were similar in all areas except for size, it would be reasonable to conclude that on a balance of probabilities the larger unit would command a higher market rent than the smaller unit (b) similarly, if rent for one unit included parking and a fenced private yard it would demand a higher market value rent than another unit that did not include parking or a yard and (c) a unit that has undergone cosmetic renovations or updates would command a higher market rent than a unit that has had no updating or renovations.

Same geographic area – The Landlord disputed the sampling of 3 bedroom units provided by the Tenant and argued that they were not in the same geographic area as they were "considerably north and north east of the prestigious subdivision" where the Tenant's unit is located. Therefore, in determining the market value rent I have considered the sampling of units provided by the Landlord and accept the undisputed submission that they were all within the same geographic area as the Tenant's unit, with two units being in the immediate area.

Calculation of Market Value Rent

I favored the evidence of the Landlord that the rent was below market value over the Tenant's argument that the value of his tenancy is diminished far below market value because his unit has not been upgraded. I favored the Landlord's evidence in part due to the following: (1) the Tenant has occupied this property for more than nineteen years; (2) the Landlord has conducted repairs when requested by the Tenant; (3) The Tenant never asked for the carpet to be replaced; and (4) the upgrades referred to by the

Tenant are all cosmetic. I accept that a rental unit that has had recent cosmetic upgrades may demand a slightly higher rent, that the upgrades themselves do not change the use or occupation of a rental unit, and cosmetic upgrades on their own would not demand a rent that was 39.5% higher.

After consideration of the above definitions, the arguments put forth by each party, and a review of the evidence submitted as samples to be compared with the Tenant's unit, I found sample market value rents in the same geographic area to range from $1,420.00 to $1,700.00. The median rent for these sample units is $1,560.00. I did not consider averaging the rents as the higher and lower rents would skew the value. I note that there were differences noted for each unit that would command either a higher or lower rent such as cosmetic upgrades or less bathrooms and smaller units.

When considering similarities and differences of sample units, I find the following rental unit to be significantly similar to the Tenant's unit, with noted differences to be considered when determining the Tenant's market value rent.

***Significantly* similar -** The sample unit located in the same fourplex has rented for $1,500.00 per month since May 01, 2010 and would be $1,557.00 after the 2013 allowable rent increase. It is a mirrored image of the Tenant's unit; it is the exact same size, 1,318 sq feet; has 3 bedrooms, 2 bathrooms; is of the same age and era; in the same geographic location, has the same yard; same parking; and the tenants are required to pay utilities. The undisputed differences relate to cosmetic face lifts or updating such as painting and flooring.

I accept the Landlord's submission that the significantly similar unit has been rented at market value for over two years, without increase, because of the desirable location and not due only to the cosmetic upgrades. Had this unit had annual rent increases the 2013 rent would be $1,661.30.

Similar units - Notwithstanding the Tenant's arguments that the other sample unit is not similar enough because it is in an upper / lower duplex and because the lower suite rents for only $900.00; the Tenant agreed with the Landlord that this was in the exact same geographic area and was of the same character and age.

I find the statutory requirement allows me to consider similarities of this type of unit as long as I take into consideration the differences between an upper / lower duplex and a fourplex when looking at the market rent in comparison to the Tenants' current rent. The significant differences in this sample are: (a) there are only two rental suites (upper / lower) which some may find more desirable than the Tenant's unit which has four rental

suites; (b) this sample upper unit is rented for $1,420.00 per month and the 2013 rent would be $1,473.96 and commands a lower rent as this unit is over 100 sq ft smaller than the Tenant's unit and it only has 1 ½ baths instead of two full baths; and (c) the lower unit which is rented for $900.00 is a 2 bed unit and only 900 sq ft which is almost 350 sq ft smaller. I noted that the lower units are not similar enough and therefore, cannot be considered as comparables for market value rent with an upper unit.

In adjusting current comparable rents to accommodate the above differences I considered that units which had undergone recent cosmetic renovations would command a higher rent of approximately $150.00 per month; therefore reducing the 2013 rent of the significantly similar unit to $1,407.00 ($1,557.00 - $150.00).

In determining the market value rent I did not use the higher rent for the significantly similar unit of $1,661.30, which would have resulted from annual rent increases from 2011 onward, because there was insufficient evidence to prove the market would demand the higher rent for these units.

Then I considered that smaller units with only 1 ½ bath of the same character, age, and in the same geographic area, would demand a lower rent of approximately $75.00 per month; therefore in relation to the Tenant's unit it would bring the value up to $1,548.96 per month ($1,473.96 + $75.00).

To determine the 2013 market value rent of the Tenant's unit I calculated the median rate between the adjusted rents of (A) significantly similar units $1407.00 and (b) similar units $1,548.96, which is **$1,477.98.**

Based on the foregoing considerations I find the Landlord has been successful in proving the Tenant's projected 2013 rent to be below market value.

Conclusion

The Landlord is hereby granted an ORDER allowing an additional rent increase raising the Tenant's 2013 rent from the legislated allowable increased amount of $1,117.30 to **$1,477.98**.

The Landlord is required to serve the Tenant with three months notice of rent increase, on **the prescribed form**, indicating the amounts as listed above if they wish to proceed with implementing this Order.

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: December 27, 2012.

L. Bell, Arbitrator
Residential Tenancy Branch

Residential Tenancy Branch

RTB-136

Now that you have your decision...

All decisions are binding and both landlord and tenant are required to comply.

The RTB website (www.rto.gov.bc.ca) has information about:

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- Toll-free: 1-800-665-8779
- Lower Mainland: 604-660-1020
- Victoria: 250-387-1602

Contact any Service BC Centre or visit the RTB office nearest you. For current information on locations and office hours, visit the RTB web site at www.rto.gov.bc.ca

Special Instructions

FILE #803534

Fax the ☐ Applicant ☐ Respondent ☐ decision ☐ MN ☐ OP

Party: Click here to enter text.

Fax #: Click here to enter text.

The following party: Click here to enter text. will PICK UP the decision at Choose an item.

I have told the party that the decision will be available by Click here to enter a date.

☐ There are multiple ☐ Applicants ☐ Respondents

Send all ☐ Applicants ☐ Respondents copies of the ☐ decision ☐ MN ☐ OP to the following who will distribute the documents:

Click here to enter text.

☐ Send each ☐ Applicant ☐ Respondent copies of the ☐ decision ☐ MN ☐ OP to their individual addresses listed in CMS.

☐ Other:

Click here to enter text.

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

File No: 803534

In the matter of the *Residential Tenancy Act,* SBC 2002, c. 78, as amended

Between

s.22

Applicant(s)

And

NORTHERN PROPERTY REAL ESTATE INVESTMENT TRUST and NORTHERN PROPERTY R.E.I.T., Landlord(s),

Respondent(s)

Regarding a rental unit at: s.22 Chapel Street, Nanaimo, BC

Date of Hearing: February 12, 2013, by conference call.

Date of Decision: February 12, 2013

Attending:

For the Landlord: Michele Murray, Office Manager
Chelsea Stern, Property Administrator

For the Tenant: s.22

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC MNSD OLC PSF LRE RR FF SS DRI O

Preliminary Issues

At the outset of this proceeding the Tenant advised that she had vacated the property by February 10, 2013 and left the rental unit keys with her neighbour. Accordingly, the Tenant's requests to dispute a rent increase, for other reasons, to have the Landlord comply with the Act, regulation or tenancy agreement, provide services or facilities required by law, to suspend or set conditions on the landlord's right to enter the rental unit, allow the tenant reduced rent for repairs, and services or facilities agreed upon but not provided are now moot as this tenancy has ended. I proceeded to hear the remaining matters pertaining to the Tenant's claim for a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement and for the return of her security deposit.

The Landlord requested an adjournment of today's hearing because the Regional Manager could not attend and because they had submitted late evidence regarding a police file. Upon consideration of the Landlord's request I found that the Landlord was well represented at the hearing and the late evidence could be provided orally; therefore, I declined to adjourn the hearing, in accordance with rule # 6.6 of the *Residential Tenancy Branch Rules of Procedure.*

Introduction

This hearing dealt with an Application for Dispute Resolution filed on January 15, 2013, by the Tenant to obtain a Monetary Order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for the return of her security deposit, and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the Tenant be granted a Monetary Order?

Background and Evidence

The Tenant submitted documentary evidence which included, among other things, copies of: 35 photos of the rental unit; her letter dated January 27, 2013 ending her tenancy effective March 1, 2013; a January 12, 2012 letter from the Landlord advising that they had purchased the building; numerous notices issued by the Landlord for maintenance upgrades and entry of the rental unit; January 29, 2012 letter issued to the Tenant providing instructions for moving out; copies of the front and back of the Tenant's rent cheques.

Upon review of the Tenant's evidence the Landlord stated that they did not receive copies of the front and backs of the cashed rent cheques. The Tenant initially affirmed that she sent the Landlord the same documents as the *Residential Tenancy Branch,* except for her drivers' license; the Tenant changed her testimony and confirmed she had not sent the Landlord copies of the aforementioned cheques.

The Landlord submitted 44 pages of documentary evidence which included, among other things, copies of: notices and letters issued to the Tenant; the tenancy agreement between the Tenant and original landlord, memos and incident reports. The Landlord stated that the evidence was sent to the Tenant by registered mail in two separate packages. They confirmed during the hearing that Canada Post attempted delivery and left notices for the Tenant on February 5th and 11, 2013.

The Tenant submitted that she did not receive the Landlord's evidence. She initially confirmed living at the rental unit and receiving mail until February 10, 2013 and later recanted her testimony to say she was not receiving mail at the rental unit address as she changed her mail at the beginning of February 2013.

The parties agreed that the Tenant entered into a month to month tenancy with the previous landlord that began on June 1, 2009. Rent was payable on the first of each month in the amount of $750.00 and on May 31, 2009 the Tenant paid $375.00 as the security deposit. No move in condition inspection report form was completed with the previous landlord. On September 12, 2012, the existing Landlord informed the Tenant, in writing, that they had purchased the building and would be the new Landlord.

The Tenant stated that she had vacated the unit by February 10, 2013 and had left the keys with her neighbor who used to be the resident manager for her previous landlord. She confirmed that prior to this hearing she did not inform the Landlord that she had vacated early and did not inform the Landlord that she had left the keys with her neighbor.

Upon further clarification the Tenant submitted that the Landlord had posted a notice of entry to inspect her unit on February 8, 2013 between 9:00 a.m. and 2:00 p.m. She stated that she had already vacated and cleaned the unit by February 8, 2013 and was staying at a hotel. She said she attended the unit at 7:30 a.m. on February 8, 2013 and unlocked her door to allow the Landlord entry and then returned that same day at 5:00 p.m. to lock it again.

The Tenant advised that she provided the Landlord with her notice to end her tenancy on January 27, 2013, after being forced into signing a contract to pay for parking at the rental unit and after being badgered and harassed with notices posted to her door. She noted that in one month she had had six (6) notices posted to her door and several entries into her apartment for repairs. She had been charged for three months of parking, at $25.00 per month, and after complaining, two of the charges were reversed.

The Tenant stated that the Landlord attempted to cash her February 1, 2013 rent cheque on January 30, 2013 which caused her cheque to be returned NSF. When that happened she decided she would not pay the February 1, 2013 rent and would move out, as she expected the Landlord would serve her a 10 Day eviction notice for nonpayment of rent. She confirmed she was not served with an eviction notice.

The Tenant acknowledged that the Landlord was not breaking the law by posting the notices on her door and around the building. She stated that they “were invading my privacy too much” and after attending the Landlord’s office on January 9, 2013, she decided she would move out and would no longer speak with her Landlord.

The Landlord submitted that their Agent saw the Tenant moving some possessions out of her unit; however, the Tenant had not contacted them to arrange the move out inspection, as requested, or to turn the keys back in. They had received her notice to end tenancy effective February 28, 2013, so expected not to regain possession until the end of the month.

The Landlords confirmed that they had changed the parking arrangements and that effective December 2012 the Tenant would be required to pay $25.00 per month for parking and would be required to sign a parking agreement. They acknowledged that there was no charge for parking with the previous landlord. The Tenant was originally charged $75.00 for three months of parking (December 2012, January 2013, and February 2013) but they reversed December and January charges. The Tenant paid $25.00 for February 2013.

The Landlord confirmed receipt of the Tenant’s notice to end tenancy on January 27, 2013. They advised the Tenant that her notice would be effective February 28, 2013. On January 29, 2013 they posted a letter confirming receipt of her notice and instructions on how the Tenant was to contact the Landlord for the move out inspection and what needed to be done to the unit for cleaning. They had attempted to contact the Tenant on several occasions; however, whenever they called the Tenant would hang up on them. When they attended in person the Tenant refused to open the door or to speak

with them. Their last contact with the Tenant was when she was in their office on January 9, 2013.

The Landlord advised that on February 6, 2013 they received a courtesy call from the police advising them that the Tenant told them that the Landlord refused to provide them with a key to lock out the elevator. They explained the situation with the Tenant refusing to speak with them so they asked the police to tell the Tenant to call them. The Landlord clarified that all tenants must request or schedule the elevator to be locked out and the Landlord would make arrangements to lock it out. The Landlord does not provide the elevator key to tenants; rather they attend the building to lock and unlock the elevator.

In closing, the Tenant advised that she completed the monetary order worksheet seeking monetary compensation on the advice of the *Residential Tenancy Branch* staff. She confirmed that she had refused to speak or communicate with the Landlord since January 9, 2013.

I explained to the Tenant that she has not returned possession of the rental unit to the Landlord, in accordance with the Act, and I gave her opportunity during this proceeding to schedule a date and time for the move out inspection. I advised the Tenant that she could have an agent attend the move out inspection on her behalf. She declined to attend a move out inspection. She stated that she did not want anyone to attend the move out inspection on her behalf, she did not want any future communication or contact with the Landlord, and the Landlord could keep her security deposit.

The Tenant provided the Landlord with her neighbor's name and telephone number during the hearing and requested that the Landlord contact that neighbor to make arrangements to pick up the keys for her rental unit.

Analysis

The Tenant confirmed that she did not provide the Landlord with copies of both sides of the rent cheques which were submitted to the *Residential Tenancy Branch* in her evidence. Based on the foregoing I find service of the Tenant's evidence not to be in accordance with section 3.1 of the *Residential Tenancy Branch Rules of Procedure.* Considering evidence that has not been served on the other party would create prejudice and constitute a breach of the principles of natural justice. Therefore as the Landlord has not received copies of the Tenant's cheques I find that the evidence not served upon the Landlord cannot be considered in my decision. I did however consider the Tenant's testimony.

The Landlord's evidence was served upon the Tenant in accordance with the *Residential Tenancy Act;* however the Tenant neglected to pick up her registered mail. The Tenant confirmed that she refused contact from the Landlord from January 9, 2013

onward. Given the circumstances before me, I find the Tenant was sufficiently served with the Landlord's documentary evidence and her refusal to pick up the registered mail does not negate service. Accordingly, I considered all of the Landlord's evidence.

A party who makes an application for monetary compensation against another party has the burden to prove their claim. Awards for compensation are provided for in sections 7 and 67 of the *Residential Tenancy Act*. Accordingly an applicant must prove the following when seeking such awards:

1. The other party violated the Act, regulation, or tenancy agreement; and
2. The violation caused the applicant to incur damage(s) and/or loss(es) as a result of the violation; and
3. The value of the loss; and
4. The party making the application did whatever was reasonable to minimize the damage or loss.

In this case the evidence supports that the Tenant vacated the property prior to February 28, 2013, without informing the Landlord of her early departure and without returning the keys to the Landlord. Accordingly, I find that this tenancy ended effective today, **February 12, 2013,** in accordance with section 44(1)(d) of the Act**.** I make this finding in part because this is the first time that the Landlord was informed that the Tenant has fully vacated the unit and how they could retrieve the keys.

The Tenant confirmed that at the time she filed her application for dispute resolution on January 15, 2013 she had not ended her tenancy. During the course of this proceeding the Tenant refused to attend a move out inspection and stated that the Landlord could keep her security deposit. Accordingly, the Tenant's request for the return of her security deposit is hereby dismissed, without leave to reapply.

The Tenant has sought financial compensation in the amount of $22,750.00 for what she refers to as harassment, discrimination, denial of her right to refuse to provide a copy of her identification, refund parking charges, and for the costs of her move. That being said, the Tenant confirmed that the Landlord has not breached the *Residential Tenancy Act* or regulation.

After careful consideration of the above I find the Landlord breached the tenancy agreement by demanding the Tenant sign a parking agreement and begin paying $25.00 a month for parking. The Tenant was initially charged for three months parking; however, two months were reversed and she paid a total of $25.00. Accordingly, I award the Tenant reimbursement of the one month parking fee in the amount of **$25.00**.

With respect to the remaining claim of $22,725.00, I find there to be insufficient evidence to meet the burden of proof as the Landlord has not breached the *Residential*

Tenancy Act or regulation. Furthermore, I find that although the Tenant filed her application for dispute resolution to seek a remedy she did not follow through with mitigating her losses as she decided to simply cut off all communication with her Landlord and made the conscious decision to end her tenancy. Therefore, the remainder of the Tenant's claim is dismissed, without leave to reapply.

The Tenant has only been partially successful with her claim; therefore, I reward her partial recovery of her filing fee in the amount of **$10.00.**

Conclusion

The Tenant has been awarded a Monetary Order in the amount of **$35.00** ($25.00 + $10.00). This Order is legally binding and must be served upon the Landlord.

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: February 12, 2013

L. Bell, Arbitrator
Residential Tenancy Branch

Residential Tenancy Branch

RTB-136

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