



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

DECISION

Dispute Codes: OPR, MNR, RR, MND, MNSD and FF

Introduction

These applications were brought by both the landlord and the tenant.

By application of February 27, 2009, the landlord sought an Order of Possession pursuant to a 10-day Notice to End Tenancy served on February 6, 2009 and a Monetary Order for the unpaid rent and filing fee, and authorization to retain the security deposit in set off against the balance.

By application of February 12, 2009, the tenant sought to have the notice set aside, compensation for a loss of heat, recovery for the consequent cost for operating an electric heater and a rent reduction for loss of a service that was part of his rental agreement.

As the commencement of the hearing, the landlord concurred with the tenant that the rent had, in fact, been paid and she withdrew the landlord's application.

Issues to be Decided

The issues to be decided are those in the tenant's application, whether he is entitled to compensation for the loss of heat, consequent extra electrical charges and a rent reduction for loss of a facility or service.

Background and Evidence

This tenancy began July 1, 2005. Rent is \$711.01 per month (including \$10 parking) and the landlord holds a security deposit of 312.50, paid on or about July 1, 2005.

During the hearing, the tenant gave uncontested evidence that the heat and been off from December 13, 2008 due to a problem with the boiler. He requested that he be reimbursed for 10 days at \$20 per day for the loss.

In addition, the tenant claimed the \$19 by which his hydro bill had grown for the period the heat was off.

The tenant further advised that his tenancy had predated the present landlord and included his right to use the fitness facilities in the rental building. Those facilities have been shut down since September 2008 for reasons, according to the landlord, that equipment had repeatedly gone missing. The landlord stated that current tenants had been paying \$10 per month to use the facilities.

Analysis

The parties agreed that the tenant's claims were fair and reasonable under the circumstances and I find that the tenants claims should be awarded as follows:

For the loss of heat, the tenant is entitled to \$200, for the added hydro charges, the tenant is entitled to \$19 and for the loss of the use of the fitness facilities, the tenant is entitled to a rent reduction of \$10 per month, retroactive to September 2008.

As the tenant's application has succeeded, he is entitled to recover the \$50 filing fee for this proceeding. The settlement, therefore, is as follows:

Loss of heat	\$200.00
Hydro extra charge	19.00
For retroactive rent reduction to September (7 mos x \$10)	70.00
Filing fee	50.00
TOTAL	\$339.00

Conclusion

I HEREBY AUTHORIZE AND ORDER

1. That the tenant's rent is reduced to \$701.01 (including \$10 parking) starting April 1, 2009;
2. That the tenant may withhold \$339 from the rent for April 2009 (\$701.01 – \$339.00 = **\$362.01**) to recovery the Monetary Award granted by this decision.

March 27, 2009

Dispute Resolution Officer