



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes O

Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking to dispute the amount of a utility bill following a change in services or facilities provided by the Landlords.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues(s) to be Decided

Is the Tenant entitled to monetary compensation from the Landlords?

Background and Evidence

This tenancy began on July 1, 2003. The tenancy agreement indicates that heat and water for the rental unit are included in the rent. At the outset of the tenancy "water" included hot water from the building. The tenancy agreement was entered into by the Tenant and a previous owner, prior to these Landlords taking over the property. The current rate of rent for the rental unit is \$775.00.

In July of 2009, the Landlords informed the Tenant that they were converting the heat in the rental unit to natural gas and a hot water heater in the unit. The Landlords informed the Tenant that following the conversion he would have to pay for heating the unit and

the cost of electricity to heat the hot water. The Tenant began reducing his rent in July of 2009, to \$725.00, a reduction of \$50.00 per month.

In her testimony, the one Landlord who appeared, explained that in July of 2009 they felt they had reached an oral agreement with the Tenant. She testified she thought the oral agreement was fair and the Tenant acknowledged this oral agreement.

In December of 2009, the Landlords provided a simple letter to the Tenant explaining the Landlords would pay for the conversion, but the Tenant would now be responsible to pay for the water and hot water, and the natural gas.

The Tenant is upset that his electrical bill has risen due to heating the water and that he now has to pay for natural gas heating for the rental unit.

Analysis

Based on the foregoing, the evidence and testimony, and on a balance of probabilities, I find that the Landlords and the Tenant have both breached the Act.

The Landlords and the Tenant are not able to agree to contract outside of the Act, under section 5.

The Landlords were required under section 27 of the Act to use the approved form (RTO – 24), to provide the Tenant with a Notice Terminating or Restricting a Service or Facility. As the heat and hot water were included in the tenancy agreement with the Tenant, the Landlords are required to provide this Notice and a rent reduction as a result of their termination of these services or facilities.

Nevertheless, I do not find that either party here intentionally breached the Act. Rather, there has been a misunderstanding of the rights and obligations under the Act by both parties when they began this arrangement.

In order to remedy the problem, I find that the parties should be placed back to the position they were in, prior to the oral agreement.

The Tenant shall provide copies of his heating and electrical bills to the Landlord. He must also provide copies of electrical bills from roughly the same time period in the year or two before, in order to compare the amounts from before and after the electric hot water heater was installed. The Landlords shall do an accounting of the bills for heating the unit and the additional charge for electrically heating the water to the present date

and this will be set off against the rent reduction of the Tenant. In other words, the parties are to go back to the position they were in June of 2009, prior to the oral agreement, as reasonably as possible.

In order for the Landlords to require the Tenant to pay for heat and hot water and for the Tenant to reduce rent, the Landlords must then serve the Tenant with the approved form and provide the required notice, and reduce his rent accordingly, as described in section 27 of the Act. Because the Tenant has been paying for the heat and hot water for a few months now, the Landlords should have a reasonably accurate method to now assess how much they must reduce the rent by.

The parties are also encouraged to resolve this matter amicably, and to try to avoid further disputes. However, if they are unable to agree either party may apply for further Resolution.

I am also providing both parties with a copy of a guidebook to the Act for their future reference.

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: June 10, 2010.

Dispute Resolution Officer