

DECISION

Dispute Codes MNDC, OLC, ERP, PSF, RR, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a Monetary Order for money owed or compensation for loss or damage under the *Residential Tenancy Act(Act)*, regulation or tenancy agreement, an order for the landlord to comply with the Act, regulation or tenancy agreement, an Order for the landlord to carry out emergency repairs for health or safety reasons, an Order for the landlord to provide services or facilities required by law, an Order to allow the tenant to reduce rent for repairs, services or faculties agreed upon but not provided and a Monetary Order to recover the filing fee.

The tenant served the landlord by registered mail on July 08, 2010 with a copy of the Application and Notice of Hearing. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Preliminary Issues

The landlord stated that their name on the application is wrong. The landlords name has now been corrected on the decision.

Issues(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for loss or damage?
- Is the tenant entitled to an order for the landlord to comply with the Act, regulation or tenancy agreement?
- Is the tenant entitled to an Order for the landlord to carry out emergency repairs for health or safety reasons?
- Is the tenant entitled to an Order for the landlord to provide services or facilities required by law?
- Is the tenant entitled to an Order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

Both Parties agree that this tenancy started on March 01, 2010. This is a fixed term tenancy which is due to end at the end of February, 2011. Rent for this unit is \$1,100.00 per month and is due on the first of each month. The tenant paid a security deposit of \$550.00 on February 14, 2010.

The tenant testifies that he has had no heat in his rental unit since the start of his tenancy in March, 2010. The tenant claims he informed the landlord but the landlord failed to take the required action to remedy the problem. The tenant states he has a health condition which means it is necessary for him to have heat at all times. Due to the lack of heat since moving into the rental unit the tenant was hospitalized for 11 days. The tenant has provided evidence from the hospital of his condition at that time.

The tenant claims he was not notified of an electrical or heating problem in the building, he claims if had to purchase a heater to keep warm but this blow the circuits in his bedroom and he had to sleep on the living room floor close to the electric heater to stay warm at night. The tenant states he contacted an independent plumber to look at the heating and electrical system in his unit to determine the problem. This contractor has

provided a written report which states there is no heat in the apartment and there is a possibility of a defective zone valves.

The tenant claims he has defective sockets in his unit which blow the circuit panel and when he spoke to the landlord he was instructed to buy a new fuse for it. The tenant claims he lost an amount of groceries in his fridge due to the power going off to the fridge. The tenant claims when he moved into the building he explained his medical needs to the caretaker of the building who told him the boiler was not shut down for the summer.

The landlord disputes the tenants claim the landlord testifies that they have had the unit and heating system inspected and it was found the tenant s heating system was not defective and the lack of heat may be caused because the tenant has placed his sofa in front of the baseboards.

The landlord has provided documentation from their plumber and electrical contractor showing the system is not defective and the tenant is possible overloading the electrical circuits by using too many appliances with higher ampage then the circuit panel will allow. The landlord testifies they dealt with the heating issue as soon as possible after the tenant raised concerns with the caretaker of the building. The landlord has provided documentation from the contractors who came to look at the heating system which shows the system cannot be shut down. The landlord states these are high efficiency boilers installed in December, 2009. They are set to regulate the temperature when the outside temperature becomes hot. All the zone valves were also tested and they all work well.

The landlord states she called the tenants plumber to find out if he was knowledgeable about high rise units and commercial boilers. The landlord testifies that the tenants' plumber told her he did not have experience with high rises but did have knowledge about residential systems. The landlord states that even if the tenant sets his thermostat

to 90 degrees the temperature will still be regulated by the system according to the outside temperature.

The landlord confirms that the tenant did have two defective sockets in his unit which were replaced by the electrician one in the bathroom and one for the stove in the kitchen.

The tenant seeks compensation of \$8,000.00 for having to be hospitalized for 11 days in March, 2010.

The tenant seeks compensation for losing his groceries to the sum of \$100.00 due to the fridge shutting down when the circuits blow and for the cost of the plumber called to investigate his problems with the heating to the sum of \$70.00.

The tenant seeks to recover all his rent for five months to the sum of \$5,900.00 due to not having heat in his unit.

The tenant states if the landlord cannot make repairs to the heating system the tenant will be forced to move from the rental unit and seeks his moving costs estimated to be \$1,000.00.

The tenant seeks an Order for the landlord to carry out emergency repairs of the heating and electrical systems and for the landlord to comply with the Act by providing suitable heating for the tenants needs. The tenant also seeks an Order for the landlord to provide services and facilities agreed upon but not provided and to reduce his rent for repairs, services or facilities not provided.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties; with regard to the tenants claim for compensation for being hospitalized; I find the landlords did act in a prompt manner to try to rectify the problem with the

tenants' issues over his heating. The landlords' documentary evidence shows that a contractor attended the unit to ascertain what, if any, problems there were with the heating. This contractor explained to the tenant that the heating system could not be shut off for the summer season but did regulate itself according to the outside temperature. While I sympathize with the tenants condition I find the landlord has provided services and facilities in line with the law, regulations and tenancy agreement and the tenant may need to consider alternative accommodation which does not rely on this type of heating system but rather one that he can control for his own needs. With regard to the tenants claim that he did not have any heat during March, I find he has provided insufficient evidence to support this other than an invoice from his plumber who it has been determined has no knowledge of this type of commercial system.

A tenant cannot expect a landlord to provide additional heating for one tenant over and above the heating needs of all the tenants when it is a multi person dwelling. I find the landlords evidence more compelling with regards to the documentary evidence from her contractors regarding the heating as they have more professional insight into this type of system than the tenants' plumber who specializes in residential housing boilers rather than commercial boilers.

With regard to the tenants claim for the landlord to comply with the *Act*, I find no evidence to support the tenants claim that the landlord has not complied with the *Act* in this matter and this section of the tenants claim is dismissed.

With regard to the tenants claim for an Order for the landlord to carry out emergency repairs; I find the landlord has had the system checked and no repairs are required. I also find the landlord has made necessary repairs to the tenants' faulty sockets in the bathroom and kitchen and no further orders are required at this time. If the tenant finds other repairs are required he must put this in writing to the landlord.

I further find the tenant has provided no evidence to support how much food was lost when his fridge shut down, the length of time his fridge was off for, or the actual cost of

replacing any soiled food. Consequently, this section of the tenants claim for \$100.00 is dismissed

With regard to the tenants claim for the landlord to provide services or facilities required by law. I find the landlord has provided a suitable heating system which although this may not meet the needs of the tenant in this instance it is still a suitable system and the landlord is not responsible for any further facilities or services to meet the tenants individual medical needs.

With regard to the tenants claim to reduce his rent for services or facilities agreed upon but not provided; I find the tenants claim for \$5,900.00 has no merit and is dismissed.

With regard to the tenants claim for \$1,000.00 for moving expenses; I find that the tenant should have investigated the heating system more thoroughly before he started his tenancy to ensure it would meet his particular needs. If the tenant chooses to move from the rental unit he must fund his moving costs himself.

As the tenant has been unsuccessful with his claim I find he must bear the cost of filing his own application.

Conclusion

The tenants claim is dismissed in its entirety without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: July 27, 2010.

Dispute Resolution Officer