



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes ERP, PSF, FF

Introduction

This conference call hearing was convened in response to the tenant's application for an Order for the landlord to make emergency repairs, to provide services or facilities required by law, and to recover the filing fees associated with this application.

Issue(s) to be Decided

Is the tenant entitled to an Order requesting that the landlord make emergency repairs and provide services or facilities required by law?

Is the tenant entitled to recovery the filing fee for his application?

Background and Evidence

The rental unit consists of an older 3100 square foot single family home. The rent is \$1200.00 and the tenant paid a security deposit of \$600.00. The tenant testified that there has been no heat in the house since the start of the tenancy in July 2010. He stated informed the landlord and that the landlord has failed to make repairs; that the house is continually cold; and that he is seeking compensation for a loss of quiet enjoyment.

Landlord H.D. provided written submissions, wherein he stated that a new furnace was installed during the summer of 2010, but that the problem was not identified until the tenant needed to heat the house. During the hearing, H.D. testified that he arranged for repairs and that he made several trips the house. H.D. stated that in the interim, he provided the tenant with three electric heaters. The tenant argued that problems persist to this day, and that three small portable heaters are not sufficient to heat the whole house. H.D. stated that he saw the tenant's children in shorts, therefore the house could not be that cold. The tenant denied that statement. H.D. said that the property is sold, and that the last time he checked into the heat was in mid-December 2010.

The parties could not agree on the veracity of their testimony. The evidence however established that to date, there is a prevailing problem with the furnace.

Analysis

Section 32(1) of the *Residential Tenancy Act* provides in part that a landlord must provide and maintain the rental property in a state that makes it suitable for occupation for a tenant. The tenant's evidence was not specific. However, based on the tenant's and the landlord's testimonies it was established that adequate heat continues to be an issue, and that the tenant lost a portion of his right to the full benefit of the tenancy. I also find that the small heaters provided by the landlord were not adequate to supply sufficient heat in a house this size. Therefore I grant the tenant \$250.00 for the loss of quiet enjoyment.

The landlord bears a number of obligations with respect to the tenant until the end of the tenancy. He owes a statutory obligation towards repairs and the tenant's right to quiet enjoyment, and he must act in a manner that is not negligent by addressing these issues in a timely and effective manner. Therefore, I order the landlord to comply with the Act by ensuring that the tenant has adequate heat for the house until the end of the tenancy.

Conclusion

Pursuant to Section 62 of the Act, I hereby order the landlord to comply with above mentioned order and the *Residential Tenancy Act*. Failure to comply may result in the tenant's right to make application for further compensation.

The tenant has established a claim of \$250.00. Since he was successful, the tenant is entitled to recover the \$50.00 filing fee. Pursuant to Section 67 of the Act, I grant the tenant a monetary order for the sum of \$300.00.

If necessary, This Order may be registered in the Small Claims Court and enforced as an order of that Court.

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 15, 2011.

Residential Tenancy Branch