



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes:

MNDC, RP, ERP

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for compensation for damage or loss under the Act and an Order that the landlord completed emergency repairs and repairs to the rental unit.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing.

Issue(s) to be Decided

Is the tenant entitled to compensation in the sum of \$160.00 for damage or loss under the Act?

Must the landlord be Ordered to complete emergency repairs and repairs?

Background and Evidence

The tenancy commenced on November 1, 2009; it was a fixed term ending October 31, 2010. The tenancy has continued, the tenant has paid rent and no receipts for use and occupancy have been issued. The tenancy agreement submitted as evidence indicated that the tenancy was to have ended on October 31, 2010, but the tenant has remained in the rental unit.

The tenant stated that the boiler heating system was replaced in December, 2010, with an electric fireplace heater and that as a result her heating bills have increased. The tenant is responsible for hydro costs and is given notice of her bills by the landlord.

The landlord confirmed that the fireplace is to be used to heat the 1 bedroom unit and that a March 5, 2011, visit by the Ministry of Health bylaw enforcement officer determined that the unit was maintained at 22 degrees Celsius at the mid-point of the living room and bedroom, 1.5 meters from the floor. No Order was issued to the landlord in relation to the heat.

The landlord supplied a breakdown of heating costs comparing December 2009 to December 2010; and January/February 2010 to the same months in 2011. The difference in charges totalled \$79.99, with all months but February showing a decrease in costs. The landlord stated that February 2010 was mild and could account for the lower hydro consumption in that year compared to 2011.

The tenant stated that when she leaves her unit she turns the heat off; the landlord stated that the bylaw officer suggested the tenant leave her heat on at all times.

The tenant stated that the windows have some sort of mould or fungus growing on them. The tenant confirmed that yesterday the landlord attended at her unit and washed the windows and the bathtub with a product that eliminates mould. At my urging, the landlord offered to provide the tenant with some of this product so that she may apply it on a regular basis.

The tenant did not submit a copy of the inspector's report; the landlord stated one will be given to the tenant.

Analysis

Section 32 of the Act provides, in part:

32 (1) *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.

I find that the tenant has failed to prove, on the balance of probabilities, that the landlord has not maintained the rental unit in a state required by the Act. The tenant did not supply any evidence in support of her claim; outside of a copy of the tenancy agreement.

During the hearing the landlord read from the bylaw enforcement officer's report which indicated that the rental unit heating system can maintain the temperatures within

acceptable levels. Therefore, the request that the landlord be Ordered to repair the heat is dismissed.

There is no evidence before me that the tenant has suffered a financial loss due to increased heating costs, as a result of the change in heat source. The landlord's evidence indicated that costs from one year to the next, in February did increase, and I accept the testimony, that on the balance of probabilities, the weather in 2010 was less severe than in 2011; which could account for the heating increase. The January and December heat costs, from the evidence before me, actually declined. Therefore, the claim for compensation is dismissed.

The landlord has washed the window sills and will provide the tenant with a product that she can use periodically in order to maintain the sills in a state free from any mould. There is no evidence before me that the mould was hazardous.

During the hearing I encouraged the parties to utilize written communication to alert the other to any concerns that might involve the need for repair or a potential breach of the Act.

Conclusion

The Application is dismissed.

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: March 21, 2011.
