



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes CNR, RP, PSF

Introduction

This matter dealt with an application by the tenant to cancel a Notice to End Tenancy for Unpaid Rent. The tenant also seeks an Order for the landlord to make repairs to the unit, site or property and to provide services or facilities required by law.

Service of the hearing documents was done in accordance with s. 89 of the *Act*. They were given to the landlord in person on March 01, 2011. I find that the landlord was properly served pursuant to s. 89 of the *Act* with notice of this hearing and the hearing proceeded in the landlords' absence.

The landlord has sent a letter asking to have the hearing postponed as he is out of the country on the date of the hearing. The hearing was not postponed and the landlord or an agent acting on his behalf has not dialled into the conference call.

Both parties were provided the opportunity to present evidence and make submissions. As the landlord did not appear the submissions were made by the tenant and her witness. On the basis of the evidence presented at the hearing, a decision has been reached.

Issue(s) to be Decided

- Is the tenant entitled to cancel the 10 day Notice to End tenancy?
- Is the tenant entitled to an Order for the landlord to make repairs to the unit?

- Is the tenant entitled to an Order for the landlord to provide services or facilities required by law?

Background and Evidence

The tenant testifies that this month to month tenancy started on or about September 01, 2010. Her rent for this unit is \$450.00 per month and is due on the 1st of each month.

The tenant testifies she received a 10 Day Notice to End Tenancy for unpaid rent on February 24, 2011. The tenant states the address on the Notice is wrong as she does not live at unit #3. The tenant also disputes the amount the landlord states is outstanding in rent.

The tenant testifies that the landlord has not made essential repairs to her rental unit. She states she has a florescent light or halogen light tube burnt out in the kitchen which the landlord has not repaired or replaced. She states that the oven in the kitchen does not work and she only has one element working on her stove top. The tenant states she is unable to cook meals without an oven and with only one working element and has to eat out more. The tenant also testifies that the fridge is not working correctly. She claims she has to keep a towel on the floor to soak up leaking water from the fridge and it does not keep her food cold. She states she has to keep some food items in her neighbours' freezer. The tenant testifies that she has notified the landlord in writing about these problems but he has still failed to make the repairs.

The tenants witness testifies that he was cooking a turkey in the oven on Christmas day when he heard a loud pop and found the oven element was sparking in the oven. He states since that day the tenant has been without the use of her oven. He testifies that only one element works on the stove top. The witness confirms that the tenant notified the landlord about these repairs and testifies that the landlord told him as they owed some back rent they were to deal with these repairs themselves and take it out of the

rent owed. The tenants witness states they cannot afford to do this and so they are left without services and facilities required by law.

Analysis

The landlord did not appear at the hearing to dispute the tenants claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the landlord, I have carefully considered the tenants undisputed documentary evidence and affirmed testimony before me and the affirmed testimony of the tenants witness.

With regard to the tenants' application to cancel the 10 Day Notice to End Tenancy, I have reviewed the Notice provided in evidence and find the address in incorrect. Section 52 (b) of the *Act* states ***in order to be effective, a notice to end tenancy must be in writing and must give the address of the rental unit.*** It is therefore my decision that the landlord has not provided the correct address of the rental unit and the Notice dated February 24, 2011 is there invalid and is cancelled. I would also caution the landlord to ensure that any future notices are given on an updated form approved by the Residential Tenancy Branch as the form used is out of date.

With regard to the tenants application for an Order for the landlord to make repairs to the oven, stove top, fridge and lights, Section 32 of the *Act* states ***a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and make it suitable for occupation by a tenant.*** The landlord has not appeared to dispute the tenants' testimony concerning these repairs and consequently I find the landlord has breached section 32 of the *Act* by not acting promptly when notified by the tenants that repairs were required. Therefore, it is my decision that the tenants are entitled to an Order for the landlord to repair the element in the oven, any elements not working on the stove top and ensure the fridge is in good working order.

The tenants are responsible to replace any burnt out light bulbs themselves which would also include any florescent lights or halogen lights according to #1 of the Residential Tenancy Policy Guidelines. Therefore, this section of the application is dismissed.

Conclusion

The tenants' application to cancel the Notice to End Tenancy is allowed. The 10 Day Notice to End Tenancy dated February 24, 2011 is cancelled and the tenancy will continue at this time.

I hereby Order the landlord to affect any necessary repairs to the oven, stove top elements and fridge with 14 days of receiving this Order.

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 18, 2011.

Residential Tenancy Branch