

DECISION

Dispute Codes MNDC

Introduction

This is an application filed by the Tenant for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement.

Both parties attended the hearing by conference call and gave testimony.

The Tenant is seeking compensation for the lack of water heat of \$300.00 for 6 months at \$50.00 per month, compensation for money owed for the \$410.00 owed in a previous decision of a rent reduction, compensation for costs associated to a claim applied for under a previous dispute hearing of \$173.15 and \$41.00 for dead plants. The Tenant is also seeking a \$100.00 rebate in compensation for which she is unaware of why her advocate placed this amount on her application.

The Tenant's claim of \$410.00 for rent reduction has been clarified by the Landlord. The Landlord states that a \$400.00 cheque was sent to the Tenant for this compensation which the Tenant has acknowledged receiving. Both parties agree that \$10.00 from the original rent reduction order is outstanding.

The Tenant's claim for compensation for costs associated to the litigation of a previous hearing is dismissed for lack of jurisdiction.

The Tenant has filed an amended claim for \$9,462.00 on October 31, 2011 the day before the hearing. The Tenant states that the Landlord was served with the amendment on the same date. The Landlord disputes this amendment as no opportunity has been given to respond to the amendment and the Tenant has not provided any details in support of these claims. I find that the amendment if allowed would prejudice the Landlord and do not allow the amendment. The hearing shall proceed based upon the original application.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

Both parties have attended the hearing and have acknowledged that the only evidence submitted is from the Tenant which the Landlord has received.

Both parties have agreed that a \$10.00 amount is outstanding from the rent reduction order that the Tenant received in a previous hearing.

The Tenant is claiming \$300.00 (\$50.00 X 6 months) for lack of water heat. The Tenant states that the Landlord failed to comply with an order from the Residential Tenancy Branch to conduct at least five tests of the temperature of the hot water in the Tenant's unit over the period of three weeks. Both parties agreed that the Landlord did not comply. The Tenant ended the tenancy by accepting the two month notice to end tenancy for Landlord's use of the property on August 31, 2011. The Tenant has provided a home ledger of water temperatures taken from June 18 to July 25, 2011. The Tenant relies on a letter from a previous resident manager who states that there is, "non-existence of hot water". The Landlord disputes the letter stating that the note is not dated, there is no direct reference to the Tenant's rental unit and that the note is subjective as there are no notations of the temperatures. The Landlord states that this resident manager was fired and may hold a grudge.

Analysis

As both parties have attended the hearing and have given detailed testimony on the Tenant's submitted evidence, I am satisfied that both have been properly served with the notice of hearing and evidence package.

I am satisfied based upon the direct testimony of both parties that \$10.00 is outstanding and owed to the Tenant.

Although the Landlord has failed to comply with the order from the Residential Tenancy Branch in conducting temperature checks on the water in the Tenants rental unit, I find that the Tenant has failed to establish a claim for the \$300.00 in compensation being sought. The Tenant has failed to provide definitive evidence that the temperature is substandard in a building that is 38 years old. This portion of the Tenant's claim is dismissed.

Conclusion

The Tenant is granted a monetary order for \$10.00.

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: November 01, 2011.

Residential Tenancy Branch