

## **Decision**

**Dispute Codes:** OLC, PSF, RR

### **Introduction**

This hearing was convened in response to the tenant's application for an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / an order instructing the landlord to provide services or facilities required by law / and permission to reduce rent for repairs, services or facilities agreed upon but not provided. Both parties participated in the hearing and gave affirmed testimony.

### **Issues to be decided**

- Whether the tenant is entitled to any of the above under the Act, Regulation or tenancy agreement

### **Background & Evidence**

There is no written tenancy agreement in evidence for this month-to-month tenancy which began on or about December 1, 2010. Monthly rent of \$600.00 is payable in advance on the first day of each month, and a security deposit of \$300.00 was collected. The subject unit is 1 of 2 units located in a developed basement. The landlord resides upstairs on the main floor.

The tenant claims that the unit is not sufficiently heated. Heat is provided mainly by a furnace, the thermostat for which is located upstairs in the landlord's residence. The landlord claims that the thermostat is set at 20 degrees Celsius, and that the tenant in the other basement suite has never complained about insufficient heat. There is also a wood burning stove in the unit which, it is understood, the tenant does not routinely make use of. Further, the landlord has offered to provide an electric plug-in heater. However, the tenant declined the landlord's offer and, in general, the tenant is reluctant to use the heater as the cost of hydro is not included in the rent.

The bedroom window in the unit is double-glazed, however, there are 2 windows in the living room which are not double-glazed. The landlord is unable to confirm whether or not the walls of this older house are insulated. The tenant claims she has recorded temperatures in the unit using a thermometer posted on a wall. Evidence in regard to recorded temperatures is limited to readings taken on only 2 days in November; both days are later than the date when the tenant's application was filed in October.

After an exchange of views, the tenant withdrew her application for the present time.

### **Analysis**

The attention of the parties is drawn to section 27 of the Act which speaks to **Terminating or restricting services or facilities**, and provides in part:

27(1) A landlord must not terminate or restrict a service or facility if

- (a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or
- (b) providing the service or facility is a material term of the tenancy agreement.

The parties are also informed of provisions set out in section 32 of the Act which speaks to **Landlord and tenant obligations to repair and maintain**, and states 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.

While the tenant has withdrawn her application, the parties are encouraged to communicate directly in regard to unit temperature. Information might include a weekly log of recorded temperatures, and a description of where there appear to be drafts.

### **Conclusion**

The tenant has presently withdrawn her application.

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*.

DATE: November 14, 2011

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Residential Tenancy Branch

