



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, ERP, RP, PSF, RR, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33;
- an order to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order to the landlord to provide services or facilities required by law pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The landlord confirmed that he received a copy of the tenant's dispute resolution hearing package hand delivered by the tenant on December 3, 2011. I am satisfied that the tenant served this package in accordance with the *Act*.

At the hearing, the tenant testified that he is satisfied that the landlord, who took over as the building manager on October 10, 2011, has been trying to address his concerns about the adequacy of the heat to his rental unit since the tenant brought his concerns to the landlord's attention. The tenant and his witness said that the tenant now has intermittent heat, but realizes that the landlord has been trying to resolve these issues and there has been marked improvement since mid-November. The tenant withdrew all non-monetary aspects of his application for dispute resolution. As such, the tenant's applications for the following are withdrawn:

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- a monetary order for the cost of emergency repairs to the rental unit pursuant to section 33; and
- an order to the landlord to provide services or facilities required by law pursuant to section 65.

The application for a monetary order for the cost of emergency repairs was withdrawn as the tenant agreed that he had no claim for repairs that he commissioned for building's heating system.

Issues(s) to be Decided

Is the tenant entitled to a monetary award for the landlord's failure to provide him with services or facilities (i.e., adequate heat) that the tenant was expecting to receive as part of his monthly rent? Is the tenant entitled to recover his filing fee from the landlord?

Background and Evidence

This periodic tenancy began on June 1, 2011. Monthly rent is set at \$750.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$362.50 security deposit paid on June 1, 2011.

The tenant provided oral and written evidence that he encountered serious problems with a lack of heat to his rental unit from September 1, 2011 until mid-November 2011. He applied for a monetary award of \$3,912.00 to compensate him for the following:

Item	Amount
Rebate of October 2011 Rent	725.00
Rebate of Half of November 2011 Rent	362.00
Damages for Lack of Heat	2,100.00
Total Monetary Award Requested	\$3,912.00

The tenant and his witness gave oral testimony at the hearing that the tenant's rental unit was very cold from at least September 1, 2011 until mid-November 2011. At that time, the parties agreed that the current building manager had repair workers visit the property and improve the heating situation in his rental unit. The tenant testified that he made repeated oral requests to the former building manager to increase the heat to his rental unit to no avail. He admitted that he never made any written requests to the landlord about his heating concerns, nor did he enter into evidence specific dates when

he raised his oral requests. His witness confirmed that the tenant complained about the heat in his rental unit during the summer and by September 2011 the tenant's rental unit was very cold. She said that she heard the tenant ask the landlord to address the heating problems. She said that until the current landlord assumed his role as building manager no progress was made.

At the hearing, the current building manager gave undisputed oral testimony that he acted on the tenant's oral complaint about heating as soon as the tenant raised this with him on or about November 11th. He gave undisputed oral testimony that he heard nothing about heating problems from the tenant from October 10, 2011 until November 11, 2011. He said that he had a plumber visit the property and adjust the boiler heating the building and the tenant's suite in particular. He entered into written evidence copies of statements from other tenants in the building who are satisfied with the heat they receive. He noted that there are sometimes problems in ensuring that heat from the basement boiler reaches the fourth floor where the tenant lives. He said that he addresses problems when tenants complain about a lack of proper heat. He said that there is heat in the building available 365 days per year and that the heat increases in September when temperatures dip below 15 degrees Centigrade. He and the former building manager testified that they request written concerns from tenants so that they can more effectively keep track of these types of problems to ensure that they are addressed. Both confirmed that the tenant had never sent any written complaint to them about this matter.

The former building manager testified that the tenant did approach her with a verbal complaint about heating on September 27, 2011 when workers had to attend his rental unit to address a plumbing problem. She said that she had a repair worker attend the premises on September 28, 2011 and increase the pressure in the boiler to address the tenant's concerns. Since he did not raise this matter with her after this adjustment, the former building manager assumed that he was satisfied with the repairs that had been done. She testified that she saw him early in October 2011 and the tenant did not raise concerns about heat with him at that time.

Analysis

Based on a balance of probabilities, I find that the tenant has not supplied sufficient evidence to demonstrate that he is entitled to a monetary award for the landlord's failure to provide adequate heat to his rental unit. The tenant and his witness provided few details about the times and dates when oral requests to address the tenant's concerns about heating with the landlord. In contrast, the evidence provided by the landlord and the former building manager was specific and cited dates when oral complaints were raised by the tenant. They provided undisputed oral and written evidence regarding the

actions taken by the landlord shortly after receiving the tenant's oral complaints. If heating problems continued after the landlord's efforts to resolve them had been concluded, it is up to the tenant to put his concerns in writing. In the absence of any written complaints about heating and in the absence of details regarding oral requests following the landlord's attempts to remedy his heating concerns, I find that the tenant is not entitled to a monetary award from the landlord. In dismissing this application, I also note that the tenant has asked for a monetary award that would rebate all of the rent that he paid from September 1, 2011 until November 15, 2011, and compensate him for a further \$2,100.00 in "damages" that he has not demonstrated in any way that he is entitled to receive. I dismiss the tenant's application for a monetary award in its entirety without leave to reapply.

Since the tenant has been unsuccessful in his application, I find that he bears responsibility for his own filing fees for his application.

Conclusion

As noted above, the tenant withdrew all non-monetary segments of his application for dispute resolution.

I dismiss the tenant's application for a monetary award without leave to reapply. I also dismiss the tenant's application to recover his filing fee from the landlord.

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: December 17, 2011

Residential Tenancy Branch