

DECISION

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

Introduction

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for compensation in the amount of \$900.00, for the loss of heat and hot water. The tenant also claimed a rent reduction until the landlord provides adequate heat and hot water.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

Issues to be decided

Was the landlord negligent in providing heat and hot water? Is the tenant entitled to compensation?

Background and Evidence

The tenancy started on July 01, 2011. The monthly rent is \$900.00 and includes the cost of heat and hot water.

The tenant stated that sometime in the middle of October, she called the landlord to complain about the lack of hot water. The tenant stated that since then, she has called the landlord several times to complain and despite her complaints, the problem still exists. The tenant was unable to provide dates of her calls.

The landlord testified that the rental complex consists of three buildings that house 183 rental apartments. A single boiler which is extremely large in size services all the rental units. During some maintenance work in summer, the landlord recognised that the boiler did not have a lot of useful life left.

In early October, some repairs were carried out and the landlord ordered a new boiler to replace the existing one. Due to the specificity of the boiler, it was not held in stock and had to be shipped in and would take about four weeks to arrive. On October 28, 2011, a maintenance staff member noticed that the boiler was leaking and plumbers were called in to fix the problem. In the mean time, the landlord stated that the water temperature was maintained at 45 degrees which is hot but not as hot as some tenants would like it to be. Room temperatures were maintained at 22 to 23 degrees. To supplement heat for comfort, the landlord purchased 200 heaters and offered them to the tenants of the complex along with an offer to cover the added cost of hydro.

The landlord stated that there is no record of complaints made by the tenant to the rental office. In addition, the tenant agreed that she did not avail herself of the offer of a heater.

The landlord also testified that other problems contributed to the delay. A leak in an underground pipe was discovered and when the boiler arrived, it was of a different size and alterations had to be made to accommodate the boiler. During the hearing, the landlord stated that the boiler would be finally installed prior to December 25.

Analysis

Section 32 of the *Residential Tenancy Act*, states that 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 having regard to the age, character and location of the rental unit, make it suitable for occupation by a tenant.

In order to prove an action for a breach of the covenant of quiet enjoyment, the tenant has to show that there has been a substantial interference with the ordinary and lawful enjoyment of the premises, by the landlord's actions that rendered the premises unfit for occupancy. Such interference might include intentionally removing or restricting services to the tenant.

In this case, I find that the tenant has not proven that she notified the landlord of the lack of heat and hot water. In addition, I find that the landlord carried out preventative maintenance and acted proactively by ordering a new boiler, prior to the leak on October 28. While the temperature may not be as high as the tenant would like it to be, the landlord also provided heaters which the tenant did not take advantage of.

I find that the tenant may have been inconvenienced while the heat and hot water temperatures are not as high as she would like them to be, but temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment. Accordingly, I find that the tenant has not proven her case for compensation and her application is dismissed.

In the event that the problem is not resolved by December 25, 2011, the tenant is at liberty to apply for a rent reduction.

Conclusion

The tenant's application is dismissed in its entirety.

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 14, 2011.

Residential Tenancy Branch