



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC; OLC; RR; FF

Introduction

This is the Tenant's application for compensation for damage or loss under the Act, Regulation or tenancy agreement; an Order that the Landlord comply with the Act, Regulation or tenancy agreement; for a rent reduction; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed testimony at the Hearing.

It was determined that the Notice of Hearing documents were provided to the Landlord by registered mail. The Landlord acknowledged that he received the documents on August 29, 2012. It was also determined that the parties exchanged copies of their documentary evidence.

Issues to be Decided

- Should the Landlord be ordered to stop restricting the Tenant's heat?
- Is the Tenant entitled to compensation for loss of heat in the rental unit?
- Is the Tenant entitled to a rent reduction?

Background and Evidence

This tenancy began on March 19, 2012. Monthly rent is \$1,065.00 and includes heat, hot water and gas. The rental property was built in 1929 and is an 11 unit, 3 storey apartment building which is heated with a piping system and radiators. The windows are single paned and are equipped with storm windows.

Each unit has radiators which have a knob that provides a small degree of individual temperature control. The main thermostat and control panel for the building are located on the second floor of the rental property.

The Tenant stated that she finds it very cold in the rental unit and that she has told the Landlord's manager on several occasions that her room was uncomfortably cool. The

Tenant stated that over the course of the tenancy she has taken temperature readings in the rental unit with a digital thermometer and the readings usually show between 63 and 67 degrees Fahrenheit. The Tenant stated that the Landlord's manager was turning the heat off in the building at night and also in the daytime during normal working hours. She stated that on some days there was no heat at all coming through her radiator. The Tenant requested an order that the Landlord comply with the Act and stop restricting heat to her rental unit. She also requested that the Landlord be ordered to provide heat up to 78 degrees Fahrenheit. The Tenant stated that 68 to 72 degrees is too cool for her comfort.

The Tenant seeks compensation in the amount of \$15.00 a day from March 19, 2012 to September 17, 2012, for services agreed upon but not provided, \$2,280.00; an additional rent reduction of \$15.00 a day for each day that heat is restricted; to recover the cost of the filing fee (\$50.00); and the cost of serving the Landlord with documents (\$50.00).

In addition, the Tenant seeks clarification that she may provide rent cheques to the Landlord monthly rather than providing the Landlord post dated cheques, as he has requested.

The Landlord's agent stated that it is commonly accepted that a comfortable room temperature for most people ranges from 68 to 72 degrees Fahrenheit. He stated that in April, the heat in the building was programmed to provide heat as follows:

67 to 68 degrees from 11:00 a.m. to 4:00 p.m. and 1 p.m. and 4:30 a.m.
70 to 72 degrees from 4:30 a.m. to 11 a.m. and 4:00 p.m. to 11:00 p.m.

The Landlord's agent stated that the Tenant told the Landlord about being cold on April 2, 2012. He stated that the Landlord addressed the Tenant's concerns in a timely manner by carrying out repairs. He said that the Tenant did not complain again until May 29, 2012 and therefore the Landlord considered the problem fixed until then. As a result of the Tenant's complaint that there was no heat in the building on May 29, 2012, he examined the main thermostat controls and discovered that they had not been adjusted for daylight savings time. He also set the programmed to go between 68 and 72 degrees. The Landlord's agent stated that the Tenant was still unhappy with the lack of heat in her suite so he re-programmed the thermostat so that it would not drop below 72 degrees at any time, and would rise to a maximum of 75 degrees. The Landlord's agent stated that he considered the problem was solved at that point.

In August, it was discovered that the boiler required a replacement part, which was ordered and installed. The Landlord's agent stated that the temperature control is

currently set to 72 degrees Fahrenheit at all times of the day. He stated that the Landlord provided the Tenant with an electric heater for her use, but the Tenant declined to take it.

The Landlord's agent submitted that each tenant has different tolerances for cold as well as heat and that some tenants have been observed with their windows open because they now find the building too stuffy.

It is important to note that the Tenant's phone ran out of power and she exited the conference at 3:45 p.m. I advised the Landlord's agent that we would wait 10 minutes to see if she signed back into the teleconference. I placed the Landlord's agent on "hold" at that time and took no more testimony from him. At 3:57 p.m. the Tenant had still not rejoined the Hearing and I concluded the teleconference.

Analysis

Section 32 of the Act requires the Landlord to provide and maintain the rental unit 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, makes it suitable for occupation by a tenant. This is an older building, with single pane windows and heating system that is not controlled by individual tenants. While I accept that the Tenant is feeling chilly, other occupants in the rental property may find a temperature that is comfortable to her (up to 78 degrees) stifling to them.

The Tenant testified that she took the temperature of the rental unit with a digital thermometer, which is not a particularly accurate way of determining ambient room temperature. The Tenant did not provide documentary evidence to support that the room temperature fell below 68 degrees for periods at a time. Based on the testimony of both parties, I find that the Landlord has provided sufficient heat to the rental unit. I accept the Landlord's submission that generally acceptable room temperature is between 68 and 72 degrees Fahrenheit. I also accept the Landlord's agent's submission that the Landlord has attempted to accommodate the Tenant by adjusting the temperature to 72 degrees and by offering her a secondary heat source.

For the reasons noted above, I dismiss the Tenant's application for compensation and a rent reduction. The Tenant has not been successful in her application and I find that she must bear the cost of filing the application and serving the Landlord.

As explained to both parties during the Hearing, the Act requires a tenant to pay rent when it is due. The onus is on the Tenant to ensure that it is paid when it is due. The Tenant may pay her rent monthly, or by post-dated cheque, whichever method suits her.

Conclusion

The Tenant's application is dismissed.

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: October 04, 2012.

Residential Tenancy Branch