



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, FF, PSF, RP, RR

Introduction

This hearing dealt with an application by the tenant seeking an order to have the landlord conduct emergency repairs for health and safety reasons, an order to have the landlord make repairs to the unit or site property, an order to have the landlord provide services or facilities required by law and an order allowing the tenant to reduce rent for repairs, services or facilities. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the tenant entitled to any of the above under the Act, the regulations or the tenancy agreement?

Background and Evidence

The tenancy began on or about October 1, 2012. Rent in the amount of \$900.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$450.00.

The tenant gave the following testimony; The heating system does not work at all and has forced the tenant to buy space heaters to heat his suite. The space heaters will then overload the electrical system causing it to shut down. The shower handle control was loose but has been fixed since the tenant filed for this hearing. The tenant feels that he should be able to access and use the laundry machines as "laundry is always included in a tenancy". The tenant disputes the validity of the tenancy agreement as it is not signed on the face of it. The back page of the tenancy agreement indicates that laundry

is not included and is signed by the tenant's wife; however the tenant stated that his wife was "forced" to sign it by the landlord. The hot water tank is working but does not provide a sufficient amount of hot water as it is a very small capacity tank. Feels the driveway should be repaired and repaved. The tenant feels that all of these issues should be repaired by the landlord as soon as possible.

The landlord gave the following testimony; adamantly disputes each and every aspect of the tenant's application. The landlord stated that he lives in the upstairs portion of this home and would be affected by these problems if they were existent. The landlord stated that the heating system is fully functional and that it was installed only 4 years ago. Has already repaired the loose shower handle so that is no longer an issue. The landlord agreed that the power has "shut down" several times but that was because the tenant was plugging in multiple appliances along with space heaters at the same time. The landlord feels the tenant wants heat to an excessive level. The landlord stated that laundry was never part of the tenancy agreement and has submitted a tenancy agreement that reflects his claim. The back of that tenancy agreement has the subject tenants' wife signature acknowledging that the laundry is not included. The landlord stated that laundry has never been part of the agreement as the tenants owned their own laundry-mat and did not require laundry services. The landlord stated the hot water tank is the regulation standard size for his home and that he has never noticed any shortage of water. The landlord was uncertain as to what the tenant was referring to in his claim that the driveway should be repaired. The landlord stated that it is in good condition and requires no repairs.

Analysis

Both parties live in the same house yet had very different opinions of the issues at hand. The landlord provided some documentation and disputing testimony to the tenant's claim. The tenant provided a "checklist" of items he wants fixed and two photos. One of the photos was of the loose shower handle that both parties agree has been fixed and is no longer an issue. The other photo is a picture of the driveway that appeared to be in good condition. The adjacent walkway is not paved and is just gravel covered. I asked

the tenant on two separate occasions as to whether he was referring to the walkway as part of his application and on both occasions he was clear that he was referring to the driveway.

As explained to the parties during the hearing, the onus or burden of proof is on the party making the claim. In this case, the tenant must prove their claim. When one party provides evidence of the facts in one way, and the other party provides an equally probable explanation of the facts, without other evidence to support the claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails.

The tenant was unclear and scattered in his presenting of testimony and evidence. The tenant would offer a version of the events and would then immediately offer another variation of the same issue. The tenant was inconsistent and with the lack of sufficient documentation to support his claim, I hereby dismiss the tenant's application in its entirety.

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: January 28, 2013

Residential Tenancy Branch