



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, ERP, RP, PSF, RR

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking an order to have the landlord make repairs; emergency repairs; provide services required by law; and a rent reduction.

The hearing was conducted via teleconference and was attended by the tenant; his advocate; three agents for the landlord and the landlord's witness.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order to have the landlord complete repairs; to complete emergency repairs; to provide services or facilities required by law; to reduce rent for repairs, pursuant to Sections 32, 33, and 66 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The landlord provided a copy of a tenancy agreement signed by the parties on June 22, 2000 for a month to month tenancy beginning on August 1, 2000 for a monthly economic rent of \$650.00 with the tenant's current contribution \$581.00 due on the 1st of each month with a security deposit of \$250.00 paid.

The tenant submits that since the start of his tenancy he has had a problem with heating and condensation in his rental unit and that he has been complaining to the landlord about for the entire 12.5 years of the tenancy. The tenant submits that the heating system does not provide sufficient heat to his unit.

The tenant submits that he has had to purchase his own space heater and that he has incurred additional electrical charges as a result. The tenant submitted a series of hydro bills showing summer usage versus winter usage. The tenant seeks \$150.00 as compensation for the additional hydro charges. The landlord finds this amount to be reasonable.

The tenant has submitted substantial documentation showing temperature readings that indicate the temperature at 3 points during each day when he collected this data, as follows:

Period	Temperature Range
December 16, 2010 – January 10, 2011	15° – 21°
January 15, 2011 – January 27, 2011	20° - 24°
November 22, 2012 – November 26, 2012	18.5° - 21.9°

The tenant testified that the city requires room temperature to be 22° at a point that is 5 feet from the floor in the middle of the room. The tenant did not provide any documentary evidence supporting this statement. The landlord submits that the hydro company suggests room temperature overnight to be 16° but provided no documentary evidence supporting this statement.

The landlord acknowledges that due to the design of the residential property the unit that this tenant is in is a colder unit and that they have been trying to determine the best approach to deal with the issue long term.

Witness GM testified that they have called plumbers each time the tenant complains about the heat but that on many occasions when the plumber arrives they cannot do any work because the radiator is too hot. Witness CH testified that he has been in the unit when it has been excessively hot and that the tenant refuses to use the heat pump installed because he does not want to incur any more hydro increases.

The landlord submits that they do want to resolve this problem and have their existing heating system modified to accommodate the requirements to heat this unit adequately. The landlord submits that the plumber had installed a pump on the unit's radiator to test, 30 days, to see if this would resolve the problem however the tenant unplugged the unit after only 1 day.

The tenant also complains that as a result of the inadequate heating the unit has a high humidity which results in excessive condensation and water in the unit. The tenant acknowledges that he does not use the dehumidifier in the unit. The landlord submits that the humidity and condensation issues result from the heat in the unit combined with the tenant's practice of opening windows and failure to use the dehumidifier. The tenant submits that he does not keep his windows open.

Analysis

As the landlord does not dispute the tenant's claim for \$150.00 for compensation for extra hydro usage I grant the tenant this compensation.

Section 32(1) of the *Act* requires a landlord to 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 for the age, character and location of the rental unit make it suitable for occupation by a tenant.

Section 33 of the *Act* allows a tenant to have emergency repairs completed if the emergency repairs are needed; the tenant has made at least 2 attempts to phone the landlord or their agent and following those attempts the tenant has given the landlord reasonable time to make the repairs.

The section includes defining emergency repairs as: urgent; necessary for the health or safety of anyone or for the preservation or use of the residential property, and are made for the purpose of repairing major leaks in pipes or the roof; damaged or blocked water or sewer pipes or plumbing fixtures; the primary heating system; damaged or defective locks that give access to a rental unit; or the electrical systems.

I accept that the tenant has provided sufficient evidence in the form of written complaints to the landlord that he has complained about the heating problem since at least November 10, 2009. I also accept the landlord has been making attempts to correct the heating problem.

However, as of the date of this hearing I find the landlord had failed to provide a permanent solution to the heating problem. I also accept, from the testimony of both parties that the tenant has not been as helpful as he should have to assist the landlord in reaching a long term solution.

As both parties have acknowledged the tenant is using a space heater that has resulted in increased hydro costs I find that until such time as the landlord has determined, tested and installed a permanent solution the tenant is entitled to a reduced rent for the unit.

I base the amount of this rent reduction, primarily on the difference between the monthly hydro charges the tenant pays in winter versus what he pays in summer as supported by the bills he has submitted. I find a reduction of \$11.50 per month reflects the difference between the tenant's summer and winter use spread out over the 12 month period.

This rent reduction is subject to two conditions:

1. The tenant must not interfere with, in any way, the landlord or any of its agents or service providers in their efforts to correct the heating problem in the tenant's unit. As an example, if the landlord or its service providers want to try a pump for 30 days the tenant must comply or he is not entitled to any further rent reductions.
2. The landlord obtains an order from a Residential Tenancy Branch Arbitrator confirming the heating repairs are completed or that the tenant is failing to cooperate with the repairs and they may reinstate the original rental amount.

As to the tenant's claim regarding the high humidity and condensation in his unit, I find that until such time as the tenant utilizes the existing dehumidifying system fully the landlord is not in violation of the *Act*, regulation or tenancy agreement but rather the

tenant is may be held liable for any damages caused by high humidity and condensation in his unit, pursuant to Section 32(3).

Conclusion

As per the above, I order the tenant may reduce his next rental payment by \$161.50 reflecting the \$150.00 compensation and \$11.50 rent reduction. Subsequent to this payment, I order the tenant may reduce rent in the amount of \$11.50 on an ongoing basis under the conditions noted above.

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 29, 2013

Residential Tenancy Branch

