



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC FF

Introduction

This hearing dealt with an application by the tenant for an order that the landlord comply with the Act, regulation or tenancy agreement, and for recovery of the filing fee for the cost of his application. The tenant and counsel for the landlord participated in the teleconference hearing.

The tenant submitted one page of documentary evidence that he did not serve on the landlord. I did not admit or consider that evidence. The landlord did not submit any documentary evidence. I heard testimonial evidence from both parties. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

Issue(s) to be Decided

Should I order the landlord to comply with the Act?

Is the tenant entitled to recovery of the filing fee for the cost of his application?

Background and Evidence

Tenant's Evidence

The tenant stated that he has lived in the rental unit for almost nine years, and the water temperature has always been low. The tenant brought up the issue with the property manager several times, but nothing was done. The water coming out of the hot water tap has been 110 degrees, which is not warm enough. The tenant needs to have hot baths for his health, but has been unable to do so.

In April 2012, the tenant sent the property manager a letter requesting that the water temperature be raised. The water temperature then went up to 120 degrees, and remained at that temperature until mid-December 2012, when it dropped back down to 110 degrees. The tenant noted that since he served the landlord with his application for dispute resolution, the water temperature has gone back up to 120 degrees.

Landlord's Response

The landlord's response was that the hot water tank has always been set at 120 degrees, as per the City requirements, and the temperature has sometimes gone up as high as 126 degrees. The tenant did not provide sufficient evidence regarding the water temperatures. Further, the tenant does not have access to the boiler to confirm the set temperature.

Analysis

I find it is not necessary at this time to order the landlord to comply with the Act, as the tenant stated that the water temperature is currently within an acceptable range. If the water temperature decreases again, it is open to the tenant to apply for monetary compensation.

I accept the tenant's testimony that the water temperature was restored to an acceptable level after the tenant served the landlord with the application for dispute resolution. The landlord did not provide supporting evidence to establish that the water temperature has always been set at 120 degrees. I therefore find that the problem would not have been resolved if the tenant had not filed for dispute resolution, and I grant the tenant recovery of the \$50 filing fee for the cost of his application.

Conclusion

The tenant is entitled to recovery of his \$50 filing fee, which he may deduct from his next month's rent.

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 30, 2013

Residential Tenancy Branch

