



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Triple Star Holdings
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDC; ERP; RP; PSF; RR

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 make regular and emergency repairs to the rental unit; an Order that the Landlord provide services or facilities required by law; and a reduction in rent.

The Tenant's agent ("NA") gave affirmed testimony at the Hearing.

Preliminary Matters

At the outset of the Hearing, NA withdrew his application for an Order that the Landlord make emergency repairs to the rental unit. He stated that there were no emergency repairs required at this time, but that the rental unit still requires regular repairs.

The tenancy agreement and other documents provided in evidence name a different landlord than the name of the Landlord indicated on the Tenant's Application for Dispute Resolution. NA testified that the corporate landlord went by several different names and all names shared the same address. He stated that the Tenant's Application named the Landlord as provided on a letter dated August 27, 2012 to the Tenant. A copy of that letter was provided in evidence.

NA testified that the Notice of Hearing documents and copies of the Tenant's documentary evidence were sent to the Landlord by registered mail on March 12, 2013, and were received by the Landlord on March 13, 2013. The Tenant provided a copy of the registered mail receipt and tracking numbers in evidence. I find that the Landlord was duly served in accordance with the provisions of Section 89(1)(c) of the Act.

Despite being served with the Notice of Hearing documents, the Landlord did not sign into the teleconference and the Hearing proceeded in its absence.

Issues to be Decided

- Is the Tenant entitled to rent abatement from March, 2012, for loss in value of the tenancy?
- Is the Tenant entitled to compensation for the cost of additional electricity to heat the rental unit?
- Should the Landlord be ordered to make repairs to the rental unit?

Background and Evidence

NA is the Tenant's son. This tenancy began on March 1, 2012. Monthly rent is \$700.00, due on the first day of each month. The Tenant paid a security deposit in the amount of \$350.00 on February 8, 2012.

NA stated that the Tenant complained to the Landlord on December 14, 2012, that the rental unit was cold. The Landlord's agent told the Tenant that the Landlord was "bleeding the system" and that the Tenant should notice an improvement; however, two weeks later the rental unit was still cold. NA stated that the temperature in the rental unit ranged from 17 to 19 degrees celsius and that his mother had to wear sweaters and socks in an attempt to stay warm. He stated that she even wore sweaters and socks to bed, but could not get comfortably warm.

NA testified that the Tenant faxed a letter to the Landlord on January 23, 2013, confirming that her heat was still not working. By February 5, 2013, the Landlord had still not replied to her letter, so she sent another fax. Copies of both faxes were provided in evidence.

NA testified that the Landlord's agent came to the rental unit on February 12, 2013, to fix the heat, but didn't have the right part.

On March 11, 2013, the Landlord replied to the Tenant's faxes, stating that the Tenant's letters were hard to understand and that the building manager would be contacting the Tenant to "discuss this matter with you further so that we may understand the issue". A copy of the Landlord's reply dated March 7, 2013, was provided in evidence.

NA stated that the Tenant received two Notices from the Landlord with respect to fixing the heater: on March 21 for March 22, 2013; and on March 26 for March 27. On April 1, 2013, the Landlord's agent installed a "hydraulic stopper", but had to remove it because it was incorrectly installed. NA stated that the rental unit is a comfortable temperature now that the winter is over, but was very cool from December, 2012 to the end of

March, 2013. The Tenant is concerned that the heat will not be fixed in time for next winter.

NA stated that the Tenant is also concerned because of bed bugs in the rental property. He stated that the Tenant received a Notice of Entry stating that there would be a first treatment for bed bugs on October 4, 2012, and a second treatment would follow 10 – 14 days later. He stated that on October 4, 2012, the Landlord's agent left a note indicating that the pest control treatment had to be rescheduled. Copies of these documents were provided in evidence. NA testified that there has not been any rescheduling to date, and that he saw bed bugs in the rental unit "two weeks ago".

NA testified that the Tenant had to place electric heaters in the rental unit in an attempt to keep it warm during the winter months. He stated that this caused her electricity bill to go up. NA stated that the electric heaters helped a little but the room temperature would not rise to 20 degrees celsius. The Tenant seeks a monetary award in the amount of \$73.08 to compensate her for estimated additional electricity costs. Copies of electricity bills were provided in evidence.

The Tenant also seeks retroactive rent abatement in the amount of \$70.00 per month from March, 2012, for a reduction in the value of the tenancy as a result of the Landlord's failure to provide heat and to eliminate bed bugs from the rental unit. NA stated that the Landlords failed to respond to the Tenant's reminders about other required repairs so he had to fix them instead, including:

- Fridge door not sealing properly;
- Faulty closet door; and
- Balcony door lock inoperable.

NA testified that all of these issues were identified as requiring repairs on the move-in Condition Inspection Report signed February 29, 2012. A copy of the Report was provided in evidence.

Analysis

I accept NA's undisputed testimony, which is supported by documentary evidence, in its entirety.

I did not have any difficulty understanding the Tenant's letters dated January 23 and February 5, 2013. They were a little "wordy", but I found the meaning clear. For example, the first two sentences of the January 23rd letter state:

“Since ever new thermo switched have been switched (changed) to different type, the heat temperature in [the rental unit] and possibly all others have not reached ever over 18 C. Most times it is 17 C which is not room temperature of 20 C to 21 C which is required to live in at comfortable acceptable level.”

(reproduced as written)

The Landlord did not make any attempt to fix the heat until February 12, 2013, when the Landlord's agent brought the wrong part. Therefore, the heating system was not repaired.

Nothing further was done until March 11, 2013, when the Landlord wrote to the Tenant acknowledging receipt of the Tenant's faxes but stating that the Landlord could not understand what the Tenant wanted. I find that a reasonable person would understand that the Tenant was asking for repairs to the heating system. I also find on the balance of probabilities that the Landlord knew that the heating system was not working in the rental unit; otherwise, the Landlord would not have attempted to fix in on February 12, 2012.

Section 32 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 makes it suitable for occupation by a tenant. Based on the Tenant's undisputed evidence, I find that the Landlord has not complied with Section 32 of the Act and that the Tenant has suffered a loss as a result of the Landlord's failure to comply.

I accept that the electric heaters increased the electricity bill, and allow this portion of the Tenant's claim as well. I find that the Tenant would not have had to use them if the heating system had been repaired by the Landlord as required by Sections 32 and 27 of the Act. The Tenant calculated the additional cost of electricity based on previous electricity bills for warmer months, and provided the following numbers:

January, 2013 additional cost	\$39.96
February, 2013 additional cost	\$16.56
March, 2013 additional cost (estimate)	<u>\$16.56</u>
TOTAL	\$73.08

Section 67 of the Act provides me the authority to determine the amount of, and order the Landlord to pay, compensation to the Tenant for damage resulting from the Landlord's breach of the Act. I award the Tenant a 5% rent abatement from March 1, 2012 to April 30, 2013 in the total amount of **\$490.00** (14 months x \$35.00). I also

award the Tenant compensation in the amount of **\$73.08** for the cost of additional electricity. The Tenant has established a total monetary award of **\$563.08** (\$490.00 + \$73.08). Pursuant to the provisions of Section 72 of the Act, both of these awards may be deducted from rent due to the Landlord.

Having found that the Landlord has failed to comply with section 32 of the Act, and based on the Tenant's testimony and documentary evidence, pursuant to Sections 62(3) and 32 of the Act, I Order the Landlord to do the following, **by June 14, 2013**:

- Hire a professional contractor to inspect the rental unit and to repair or replace the heating system so that it is capable of maintaining a standard room temperature of 20 degrees celsius.
- Hire a professional pest control company to inspect the rental unit and to treat it for bed bugs and or other pests as required.

I further find that the Tenant is entitled to a rent reduction in the amount of 5% effective May 1, 2013. Therefore, **effective May 1, 2013, monthly rent will be \$665.00** until the repair and maintenance orders set out above are completed **and the Landlord is successful in an application to have the rent reduction stopped**. To be clear, once the Landlord has completed these repairs, the onus is on the Landlord to be successful in an Application for Dispute Resolution that the rent reduction should cease.

The Tenant is at liberty to file another Application for Dispute Resolution seeking additional orders and compensation if the heating system is not functioning by September 1, 2013.

Total monetary award for Tenant

The Tenant has established a total monetary award in the amount of **\$563.08**. Pursuant to the provisions of Section 72 of the Act, the Tenant may deduct her monetary award from future rent due to the Landlord.

Commencing May 1, 2013 and until the Landlord is successful in an application to have the rent reduction stopped, rent will be **\$665.00**.

For clarity, after deducting her monetary award of \$563.08, **rent for May, 2013 will be \$101.92** (\$665.00 - \$563.08).

Conclusion

I find that the Tenant is entitled to rent abatement and compensation for the cost of additional electricity to heat the rental unit, in the total amount of **\$563.08**, which she may deduct from future rent due to the Landlord.

I further find that monthly rent commencing May 1, 2013, until the Landlord is successful in an application to have the rent reduction stopped, rent will be **\$665.00**.

For clarity, after deducting her monetary award of \$563.08, **rent for May, 2013 will be \$101.92** (\$665.00 - \$563.08). **Rent for June will be \$665.00.**

I Order the Landlord to do the following before June 14, 2013:

- Hire a professional contractor to inspect the rental unit and to repair or replace the heating system so that it is capable of maintaining a standard room temperature of 20 degrees celsius.
- Hire a professional pest control company to inspect the rental unit and to treat it for bed bugs and or other pests as required.

The Tenant is at liberty to file another Application for Dispute Resolution seeking additional orders and compensation if the heating system is not functioning by September 1, 2013.

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: April 22, 2013

Residential Tenancy Branch

