



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, OLC, PSF, RR

Introduction

This hearing was scheduled in response to the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / an order instructing the landlord to comply with the Act, Regulation or tenancy agreement / an order instructing the landlord to provide services or facilities required by law / and permission to reduce rent for repairs, services or facilities agreed upon but not provided.

Both parties attended and gave affirmed testimony.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

The unit which is the subject of this dispute is 1 of what are 41 units located within a 4 storied older building. Pursuant to a written tenancy agreement, the tenancy began on September 1, 2006. A security deposit of \$297.50 was collected near the start of tenancy, and monthly rent is currently \$729.00.

Heat is included in the rent, and a previous hearing was held in a dispute between these parties in regard to the matter of heat (file # **redacted**: decision dated January 11, 2012). In the current dispute, the tenant claims that heat to his unit has been shut off, with the result that his level of comfort has been compromised and a medical condition has been exacerbated. Compensation sought in the total amount of \$75.00 reflects what the tenant states is the cost of a space heater (\$45.00) in addition to the cost of hydro (\$30.00). There are no copies of receipts or bills submitted in evidence, and

neither is there any documentary evidence before me in support of the tenant's claim around the medical implications of a lack of sufficient heat.

The landlord testified that as a result of warm temperatures, heat was indeed shut off between the period from approximately July 11 to August 16, 2013. The landlord also testified that while the tenant complains about too little heat, the tenant's windows have often been seen to be open.

Analysis

The full text of the Act, Regulation, Residential Tenancy Policy Guidelines, Fact Sheets, forms and more can be accessed via the website: www.rto.gov.bc.ca

Section 1 of the Act defines "**service or facility**" in part:

includes any of the following that are provided or agreed to be provided by the landlord to the tenant of a rental unit:

(l) heating facilities or services

Section 27 of the Act speaks to **Terminating or restricting services or facilities**, in part:

27(1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

Based on the documentary evidence and testimony, I find that pursuant to the written tenancy agreement, the provision of heat is a material term of the agreement. I also find that heat to the unit was terminated for the limited period of time from approximately July 11 to August 16, 2013. In the absence of any conclusive documentary evidence in support of how the temporary termination of heat led directly to certain costs being incurred by the tenant, or exacerbated a medical condition, I find that the tenant has established entitlement limited to \$50.00. I hereby order that the tenant may withhold this amount from the next regular payment of monthly rent.

Conclusion

I order that the tenant may withhold **\$50.00** from the next regular payment of monthly 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: August 20, 2013

Residential Tenancy Branch

