



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Coldwell Banker City Center Realty
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, RR, PSF, RR, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for loss - Section 67;
2. An Order for the Landlord to comply with the Act - Section 62;
3. An Order for the Landlord to provide services required by law – Section 65;
4. An Order for the Landlord to make repairs – Section 32;
5. An Order allowing the Tenant to reduce rent for services/facilities agreed upon but not provided – Section 65; and
6. An Order to recover the filing fee for this application - Section 72.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to the monetary amount claimed?

Is the Tenant entitled to orders that the Landlord comply with the Act, provide services or facilities, and to make repairs?

Is the Tenant entitled to a reduction in rent?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The following are agreed facts: The tenancy started on September 15, 2012. Rent of \$1,650 is payable monthly on the first day of each month. On April 28, 2013 the oven stopped working and the Landlord was informed the next day. The oven is two to four years old. To date the oven has not been repaired.

The Tenant states that as a result of not having the oven the Tenant had to eat out. The Tenant states that although the stove top was useable, many dishes require completion in the over. The Tenant states that she does not use the microwave oven due to personal concerns with safety. The Tenant states that trying to find a meal under \$20.00 in the downtown area is virtually impossible. The Tenant provided receipts for some of the meals purchased out of the unit but was unable to provide all as some were lost. The Tenant claims \$2,445.00 in compensation for the loss of the oven.

The Landlord states that the Tenant's monetary amount is excessive and that many meals could have been prepared without the oven. The Landlord states that the Tenant could have purchased a stove top oven to reduce her costs in eating out. The Landlord states that the parts for the oven have to come in from Europe and that they expect the parts to arrive within the next two weeks.

The Tenant provided copies of email conversations with the Landlord indicating that the Landlord has told the Tenant since the oven was damaged that parts are coming soon. It is noted that the tenancy agreement includes a range.

Analysis

Section 32 of the Act provides that a landlord must make repairs to make a unit suitable for occupation by a tenant. Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove, inter alia, that the damage or loss claimed was caused by the actions or neglect

of the responding party, that reasonable steps were taken by the claiming party to minimize or mitigate the costs claimed, and that costs for the damage or loss have been incurred or established. Based on the undisputed evidence that the Tenant lost the use of the oven and that it has not been replaced to date, I find that the Landlord has breached the tenancy agreement and has failed to make repairs to the oven within a reasonable time. Given the length of time that has passed, I find the Landlord to be significantly negligent in carrying out its obligations to repair the stove. I therefore find that the Tenant has substantiated an order for repairs and I order the Landlord to repair or replace the stove **no later than September 3, 2013**. Should the Landlord choose to replace the stove, I order the Landlord to replace the stove with a comparable stove as was provided with the unit at the time the tenancy agreement started.

Accepting that the cost of eating at a restaurant in the area of the unit is expensive and significantly more costly than to prepare food in an oven at home, I find that the Tenant has substantiated a minimal loss of one meal each day, taking into account the Tenant's ability to prepare other meals and snacks on the stovetop thereby mitigating her loss. As the Tenant will have been without a stove for 129 days by September 3, 2013 and considering a reasonable cost of \$20.00 per day for at least one meal, I find that the Tenant has substantiated the claim of **\$2,445.00** for her loss to September 3, 2013. I limit this monetary award to the amount claimed by the Tenant in the application.

Should the Landlord fail to have the stove repaired or replaced by September 3, 2012, I order the Tenant to reduce October 2013 rent by \$300.00. Should the Landlord fail to have the stove repaired for each month thereafter by the first day of that month, I order the Tenant to reduce rent for each subsequent month by \$300.00 until the stove is repaired or replaced.

As the Tenant has been successful with its application, I find that the Tenant is entitled to recovery of the **\$50.00** filing fee for a total entitlement of **\$2,495.00**.

Conclusion

I order the Landlord to repair or replace the stove on or before September 3, 2013.

I grant the Tenant an order under Section 67 of the Act for the amount of **\$2,495.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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 29, 2013

Residential Tenancy Branch