



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Royal Lepage Westguard
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, OLC, ERP, RP, RR, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking orders to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement and financial compensation.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

At the outset of the hearing the tenant testified that she now has heat in her unit and she no longer requires an order to have the landlord comply with the *Act*, regulation, or tenancy agreement; an order to have the landlord make emergency repairs; or an order to have the landlord make repairs. As such, I amend the tenant's Application to exclude these three matters.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a rent reduction for repairs not provided; to a monetary order for compensation; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 65, 67, and 72 of the *Act*.

Background and Evidence

The tenant provide the first page of a tenancy agreement that confirms a 1 year fixed term tenancy beginning on November 1, 2012 for the monthly rent of \$1,450.00 due on the 1st of each month.

The tenant submits that she has not had any heat since she moved in to the rental unit in November 2012 and that she report the problem verbally to the landlord's onsite agent sometime in April 2013. She confirmed that she put her complaint in writing to the landlord on July 30, 2013.

The tenant submits that she has had to use a space heater and have her oven on in order to heat the rental unit. The tenant submits that many other tenants have the same complaint but they are intimidated by the landlord and will not lodge a complaint.

In support of her claim the tenant has submitted several handwritten notes from her to the landlord dated from July 30, 2013 onward to include notes for August and September. The notes, such as the one dated August 12, 2013, states that the tenant wrote the note at 5:00 a.m. and that she is freezing; that the system is not working despite the landlord's promise to repair; and she asks why she can't use her thermostat to warm up the apartment.

The tenant did not provide any empirical data such as day or night time outside temperatures; interior ambient temperature for any of the period claimed; or any information regarding hydro costs either for normal usage or for any increases related to the heat issue.

The landlord submits that he has not received any complaints from any other tenants; that there is and was nothing wrong with the heating system. That he had the entire system checked within the last couple of days and no problems were identified.

The parties agreed the landlord has provided the tenant with compensation in the amount of \$70.96 for one month compensation of \$25.00 and to cover the cost of a space heater, on September 9, 2013.

The tenant is claiming compensation in the amount of \$250.00 or \$25.00 per month for 4 months for increased costs of hydro resulting from the use of a space heater and her oven to heat the unit.

Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

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.

I find, in the absence of any empirical data regarding temperatures or any substantiating complaints from other tenants, the tenant has failed to provide sufficient evidence that

the landlord has failed to provide adequate heating to the rental unit. As such, I find the tenant has failed to establish the landlord has failed to meet his obligations under Section 32(1).

Further, even if the tenant had provided sufficient evidence to establish the landlord had violated the *Act*, regulation or tenancy agreement, she has not provided any evidence to establish the value of the additional costs that she may have incurred due to increased electrical costs.

Conclusion

For the reasons noted above, I dismiss the tenant's Application in its entirety.

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: September 26, 2013

Residential Tenancy Branch