



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, RP, OLC, FF, MNDC

### Introduction

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord by mailing, by registered mail to where the landlord carries on business.

The tenant vacated the rental unit on November 15, 2013. She faxed a document to the Residential Tenancy Branch that stated that she was now seeking a monetary order in the sum of \$1600 (two months rent). She failed to follow the correct procedure for amending her Application. The landlord received a copy of the document on the morning of this morning. However, the landlord stated she wanted the matter dealt with today and consented to hearing the tenant's application for a monetary order in today's hearing. As a result I ordered the amendment of the Application for Dispute Resolution to include a monetary claim of \$1600.

### Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order to cancel a 10 day Notice to End Tenancy?
- b. Whether the tenant is entitled to a repair order?
- c. Whether the tenant is entitled to a monetary order for the reduced value of the tenancy and if so how much?
- d. Whether the tenant is entitled to recover the cost of the filing fee?

### Background and Evidence

The tenancy began on October 1, 2012. The written tenancy agreement provided that the tenant(s) would pay rent of \$800 per month payable on the first day of each month. The tenant(s) did not pay a security deposit.

The tenant vacated the rental unit on November 15, 2013.

### Application to Cancel a 10 day Notice to End Tenancy and an Application for a Repair Order:

The tenant has vacated the rental unit. As a result it is no longer necessary to consider the tenant's application to cancel a 10 day Notice to End Tenancy and the application for a Repair Order. Those claims are dismissed as moot.

### Application for a Monetary Order

The tenant seeks a monetary order in the sum of \$1600 (reimbursement of the rent for September and October) for the following reasons:

- She testified the landlord failed to provide heat for September and October. She testified her children got sick and her 4 year old was urinating in his bed as a result.
- Repairs have not been done in a timely manner including the failure to repair a toilet paper holder, a shower curtain and a kitchen cupboard.

- Failure to repair an entrance light and a car port door that was damaged by others trying to break in.
- Landlord coming to the rental property without giving notice..

The tenant testified that the furnace was not working for the two months and she was without heat. Eventually the upstairs tenant turned on a switch resulting in heat from November 2, 2013 to when she left of November 15, 2013.

The landlord responded by saying that she was not advised of the heat problem until she received a text message around the first week of October. She testified she advised the owner of the rental unit who attended to inspect the furnace. She also hired a furnace technician at who inspected the rental unit and told her the problem was the failure to turn on a switch. She testified that the landlord has paid a gas bill for the relevant period in the following sums:

- August 19 to September 19 -- \$93
- September 19 to October 19 - \$131.95
- October 19 to November 19 - \$151.

The gas is for the furnace which is provided to the downstairs and upstairs rental units.

The landlord acknowledged showing up at the rental unit unannounced a couple of times a month but that was to pick up the rent. Also she lent the male tenant money in order for him to obtain his security licence. She testified the tenancy was amiable for the first portion of the tenancy but the relationship soured when the tenant was late in paying rent and when the tenant filed a swimming pool (at a cost of \$400 without the consent of the landlord).

### Analysis

The tenancy agreement provides that the landlord is responsible for the heat and it is included with the rent. I do not accept the evidence of the tenant that there was no heat at all. The evidence of the landlord showing the gas bill indicates that gas was provided for the months of September and October. The tenant failed to properly advise the

landlord until her letter of October 8, 2013. The landlord is not responsible for any reduced value of the tenancy for lack of heat prior to that time as the landlord was not sufficiently advised on the problem.

The tenant did not provide precise evidence as to how cold it was in her rental unit and how often the heat was not working properly. She failed to provide sufficient evidence as to how the lack of heat affected her day to day living. The tenant testified her children became ill because of the lack of heat. However, she failed to present medical evidence to prove this allegation or to prove that it their illness if any was related to the lack of heat. However, despite the limitations in the evidence I determined there was some problem with furnace which adversely affected the tenant's enjoyment of the rental unit. Also I am satisfied the landlord failed to make the repairs in a timely manner and that the landlord failed to follow the procedures required under the Residential Tenancy Act about giving notice before attending the rental property.

**In the circumstances I determined the tenant has established a claim against the landlord in the sum of \$125.**

Monetary Order and Cost of Filing fee

**I ordered the landlord(s) to pay to the tenant the sum of \$125 plus the sum of \$50 in respect of the filing fee paid pursuant to section 49 for a total of \$175.**

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: December 11, 2013

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Residential Tenancy Branch

