



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding WEST HOTEL
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: MNDC, RR

Introduction

This hearing dealt with an application by the tenant for a monetary order for compensation under the *Act* and for a rent reduction for repairs not carried out. Both parties attended the hearing and had opportunity to be heard.

The tenant filed late evidence at the Residential Tenancy Branch. The landlord stated that he had not received the tenant's evidence. Therefore, I have not considered the tenant's documentary evidence in the making of this decision. This decision is based on the oral testimony of both parties.

At the start of the hearing, the tenant informed me that the problem with the heating was repaired on April 14, 2014. Therefore the tenant's application for a rent reduction is dismissed and this hearing will only deal with the tenant's application for compensation for the inconvenience suffered due to the lack of proper heating.

Issue to be Decided

Did the landlord fail to provide the tenant with services that are included in the rent? Is the tenant entitled to compensation?

Background and Evidence

The tenancy began in August 2012. The monthly rent is \$425.00 due on the first of each month. The rental unit is located in a hotel that houses other rooms for rent. In January 2013, the hotel changed hands.

The tenant stated that the problems started in October 2012 and he informed the owner at that time of the lack of heating in his rental unit. The new owner took over in January 2013 and stated that since he bought the hotel, the only indication of the problem was when he received a report from the city inspector at the end of January 2014.

The tenant stated that shortly after the new owner took over he handed over all the correspondence with the old owner regarding the problem with heating in his room. The landlord denied having received any of this material and maintained that he was informed of the problem at the end of January 2014.

The landlord explained that the heating plant is shut down in May and restarted in November of each year.

The tenant stated that after the initial contact in January 2013, the next time he contacted the landlord regarding the heating problem was by email on February 27, 2014. The landlord denied having received any emails from the tenant and stated that it was not a practice to receive complaints by email.

The landlord agreed that he received a report from the City at the end of January 2014 and that after receiving the report, notices to enter were given to the tenant but due to other pressing problems in the rental building, some were not followed through. The problem finally got resolved on April 14, 2014.

The tenant has applied for compensation in the amount of \$900.00. He stated that he has arrived at this amount by calculating \$75.00 for all the months from the start of tenancy that he was without proper heat. These months are listed as October 2012 to March 2013 and October 2013 to March 2014.

Analysis

Based on the sworn testimony of both parties I find that the heating was a service that was included in the rent. I further find that there was a problem with the heating in the tenant's rental unit.

The parties provided contradicting testimony regarding the notices to the landlord in January 2013. Since this landlord purchased the property in January 2013 and in the absence of additional evidence to support the tenant's testimony that the landlord was notified of the problem in January 2013, I dismiss the portion of the tenant's claim for compensation for the period of October 2012 to March 2013.

The tenant testified that the next time he notified the landlord was on February 27, 2014. However, I find that the landlord was notified of the problem in January 2014 when he received a report from the City's inspector.

Section 32 of the *Residential Tenancy Act*, addresses the landlord and tenant obligation to repair and maintain the rental unit.

The landlord must provide and maintain the rental property in a state of decoration and repair that complies with the health, safety and housing standards required by law.

In this case, I find that the landlord failed to act on the required repairs in a timely manner, thereby causing the tenant some inconvenience due to the lack of heating in the rental unit. Therefore I find that the value of the tenancy is diminished and that the tenant is entitled to some compensation. In determining the amount by which the value of the tenancy has been reduced, I take into consideration the seriousness of the situation and the length of time over which the situation has existed.

In this case, the tenant has endured this inconvenience for two to three months in 2014 before the problem was fixed on April 14, 2014. *Residential Tenancy Policy Guideline #16* states that an arbitrator may award “nominal damages” which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right.

Based on the testimony of both parties, the nature and period of time of the inconvenience suffered by the tenant, I find it appropriate to award the tenant \$150.00.

Conclusion

The tenant may make a onetime deduction of \$150.00 off rent for the month of May 2014.

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 24, 2014

Residential Tenancy Branch

