



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNDC, PSF

Introduction

This hearing dealt with an application by the tenant for a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement, and for an order that the landlord provide services or facilities required by law.

Both the landlord and tenant attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement?

Is the tenant entitled to an order that the landlord provide services or facilities required by law?

Background and Evidence

The parties agree the tenancy started July 1, 2008 and the tenant is currently obligated to pay \$934.00 rent monthly in advance on the first day of the month. The tenant also paid a security deposit of \$437.50.

The tenancy agreement signed by the parties on June 12, 2008 indicates that heat is included in the rent. The tenant asserts that the heat provided is not adequate, and she seeks compensation for the additional cost of running an electric space heater.

The tenant provided a photograph of the rental unit, which is a ground floor studio apartment with a large glass area that appears to take up the eastern wall of the unit. The glass area is a stationary window and a sliding glass door that slides to one side, over the stationary window. The tenant estimates the total size of the rental unit is less than 500 square feet. The source of heat in the apartment is a hot water radiant heat baseboard heater. The tenant gave evidence that there is a dial on the baseboard heater but even with the dial turned to maximum, the baseboard heater does not produce very much heat. The tenant also gave evidence that there is a gap between the sliding glass door and the adjoining stationary window, and this lets cold air in.

The tenant gave evidence that, over the six winters she has lived in the rental unit, she has run a space heater from October through May. She estimates that her hydro bill is about \$50.00 more in each month that she runs the space heater.

The landlord gave evidence that the tenant told him about the problem in the first year of her tenancy and he arranged for maintenance people to inspect the baseboard heater. At the time, it was proposed that the landlord would put up a vapor barrier over the glass area in winter to prevent heat loss. However, the tenant did not want this solution because she uses the sliding glass door as an exit.

The tenant said the solution proposed earlier was to seal the patio door. However, there are no windows in the suite which open and so the patio door is the only way to get fresh air into the rental unit.

The landlord's evidence is that the tenant did not contact him again about the heat being inadequate until late 2013. Within the month before the hearing, the landlord had the zone valve replaced. The zone valve regulates the amount of hot water circulated to the rental unit heater.

The tenant gave evidence that the new zone valve has not had much impact on the heat.

The landlord's evidence is that the building manager told him that other suites in the building had similar issues and they were addressed by replacing the zone valves. The landlord has another rental unit in the building and, in that case, heat issues were addressed by putting up a vapor barrier in winter months.

The landlord's evidence is that if he knew the tenant had an ongoing problem with heat, he would have dealt with it sooner. The tenant said she contacted the landlord the first two winters and then gave up. Asked how many times she mentioned the problem to the landlord, the tenant said it was probably three times.

The tenant provided a copy of a letter she sent to the landlord dated June 28, 2013 in which she advises there is an ongoing problem with the heat and there is a gap allowing cold air in. The tenant also advises the landlord that she cannot afford the additional hydro costs and is considering making an application to the RTB.

The tenant provided a copy of a letter from the landlord dated July 24, 2013. The landlord's letter does not make specific mention of the heat issue but says "As mentioned previously if you think that you have some sort of claim against the owner please proceed with whatever action you feel is necessary."

Analysis

I am not convinced that the landlord was aware that the tenant had an ongoing problem with her heat, prior to the tenant's letter of June 28, 2013. The parties agree that the tenant advised the landlord that it was too cold in the winter of 2008/2009 and the landlord sent a maintenance person to look into the problem. The landlord gave evidence that the tenant did not tell him afterward that the problem was ongoing. The tenant did not seem certain when she spoke to the landlord about heat issues, and was unable to provide a copy of a letter or email to the landlord documenting her concerns prior to June 2013.

The landlord took action in late March or early April 2014 by having a zone valve replaced in the baseboard heater. However, it does not appear that he took any action to address the problem between June 2013 and the following spring after the tenant filed this application. In fact, the landlord's letter of July 24, 2013 does not indicate any willingness to address the problem. For that reason, I find the landlord is liable for the tenant's additional heating costs for a six-month period from October 2013 through March 2014. I accept the tenant's estimate that her additional heating costs are \$50.00 per month and she is therefore entitled to an award of \$300.00. I authorize the tenant to deduct this sum from her rent on a one-time basis.

I find it is appropriate to give the landlord an opportunity to address the problem further before making any orders. The landlord indicates he is willing to find a solution, and I accept that he is sincere.

I therefore dismiss the tenant's application for an order that the landlord provide services or facilities required by law, **with leave to reapply** if the parties are not able to find a workable solution within a reasonable period of time. The parties may need to experiment with a range of solutions and I encourage them to work together cooperatively.

Conclusion

The tenant may deduct \$300.00 from her rent on a one-time basis. The tenant's application for an order that the landlord provide services or facilities required by law is dismissed, with leave to reapply.

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: May 09, 2014

Residential Tenancy Branch

