



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC

Introduction:

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for orders as follows:

- a) A monetary order pursuant to Sections 32, 33, 65 and 67 as a rent rebate and compensation for the unsanitary and unsafe condition of the rented premises.

SERVICE:

The landlord did not attend. The tenant provided sworn testimony that he served the Application for Dispute Resolution by registered mail. It was verified online as successfully delivered on March 31, 2014. I find that the landlord was properly served with the documents according to sections 88 and 89 of the Act.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the home rented to them by the landlord was unsafe and infested with vermin and if so, to how much compensation have they shown entitlement?

Background and Evidence:

The landlord did not attend and submitted no documents in dispute although served with the Application/Notice of Hearing. The tenants attended and were given opportunity to be heard, to present evidence and to make submissions. The tenants who are on disability said they viewed a home undergoing renovation on December 1, 2013, the landlord agreed to rent it to them and said it would be ready by January 1, 2014. The tenants moved into the home and paid rent of \$1200 for January, February and March 2014 directly through the Ministry.

The tenants said the landlord moved another occupant into the home to pay \$400 a month and insisted these tenants pay for utilities although this was not mentioned at the time of the rental agreement. They paid \$234.67 for gas in January and \$138 for

February but did not pay the March bill. The tenants signed a document but are unsure if it was a lease as they were never given a copy. They said there were about 5 other persons living on or using the property, some for commercial purposes. They said that throughout their tenancy, they smelt gas and Fortis told them the furnace had not been used since 1979 until the landlord hooked it up in November 2013.

On February 4, 2014, they said the furnace blew up through the floor and from February 4th to 16th, they had no heat while it was 0 degrees and snowy outside. They had to live elsewhere for a time. In the third week in February the furnace was fixed and turned on again, then they saw rats running on the floor, found holes eaten in the drywall and had a nest of rats in the roof as well as hornets. When they called the landlord, they said he just blamed them and did nothing.

The tenants claim \$5000 as they believe they should have refund of rent for the three months and also receive compensation for their repeated bouts of illness which they believe was caused by leaking gas. The tenants said they had photographic evidence but had not supplied it.

On the basis of the solemnly sworn evidence presented at the hearing, a decision has been reached.

Analysis

Monetary Order:

The onus of proof is on the tenants to prove that they are entitled to a refund of rent and further compensation. I find the tenants' evidence credible as it was detailed and consistent concerning the events. I find they paid \$3600 in rent through the Ministry for three months for what they thought was a whole house recently renovated. I find their evidence credible that for February the house was largely uninhabitable as the furnace blew up resulting in significant damage and no heat. Considering that this was likely caused by neglect of the landlord as he had connected an old furnace unused since 1979, I find the tenants entitled to a rebate of rent for February 2014 in the amount of \$1200. Although they claimed a refund of all the rent they had paid, I find they did inhabit the home for the other two months and I find insufficient evidence that the home was uninhabitable during those months or that the landlord through act or neglect caused their problems in January or March 2014.

As the tenants were forced to share the home with another person and pay the whole gas bill, I find the tenants entitled to a refund of one third of the gas bills they paid or \$124.22 (372.67 total divided by 3). Although the tenants contended that the leaking

gas made them ill and the house was infested with rats and hornets, I find they provided insufficient evidence of these claims so no compensation is awarded for these items.

Conclusion:

I find the tenants are entitled to a monetary order for \$1324.22 (\$1200 + \$124.22). No filing fees were involved. I dismiss the remainder of the claims from the tenant without 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: July 16, 2014

Residential Tenancy Branch

