



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding OLTL Holdings Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, RR, PSF, MNDC

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order requiring the landlord to comply with the Act, for an order allowing a reduction in rent, an order requiring the landlord to provide services or facilities required by law and a monetary order for money owed or compensation for damage or loss.

The parties attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, neither party raised any issues regarding service of the application or the evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Issue(s) to be Decided

Is the tenant entitled to orders for the landlord, a reduction in rent, and monetary compensation?

Background and Evidence

The undisputed evidence shows that this tenancy began on December 1, 2011, monthly rent is \$960, and that the tenant paid a security deposit of \$450.

The tenant's monetary claim is \$105, comprised of loss of heat for 26 days @ \$3 per day.

The rental unit is one of 39 units in a three floor apartment building. The tenant resides on the top floor.

In support of his application, the tenant submitted that, under the written tenancy agreement, the landlord is responsible for providing heat to the rental unit, although the tenant is responsible for the hydro costs. The tenant did not provide a copy of the tenancy agreement.

The tenant submitted further that on May 26, 2014, he encountered the resident manager, who informed the tenant that the furnace was broken permanently and that the landlord would be replacing the heating system. The tenant was informed that the new heating system would be in place within a week, according to the tenant.

The tenant submitted further that, to date, the heating system is still not working, and that it was not until June 15 that the landlord offered an electric heater, with a further offer to compensate the tenant for the difference in hydro usage this year and last year.

The tenant submitted further that he had to keep his windows closed, causing the rental unit to feel stuffy, and that the landlord has not offered any compensation for the loss of heat, which was an essential service, according to the tenant.

The tenant confirmed that most days he has not needed the heat, but that the heating is still not working.

Landlord's response-

The landlord submitted that the boiler system did break down on May 17, but relied on her resident manager to inform the tenants of the issue. The resident manager, who lives nearby on the same floor as the tenant, informed the landlord that the temperatures were comfortable.

The landlord submitted that the tenants were offered compensation by way of electrical heaters and the difference in their hydro bills.

The landlord submitted further that as the replacement of the boiler system was an expensive undertaking, she needed to make an informed decision on the replacement. To that end, the landlord obtained quotes from 4 contractors and has now hired a contractor to replace the heating system, according to the landlord. The landlord estimated that the heating system would be in place in two weeks following the signing of the contract.

Analysis

As to the tenant's request that the landlord comply with the Act and to provide for an essential service, I find the tenant submitted insufficient evidence to prove that heat is essential to the use of the rental unit as a living accommodation in the summer months

when annual temperatures are at their highest. Although the tenant submitted the outdoor temperatures for the period of May 26 through June 25 as listed by Environment Canada, the tenant failed to submit the temperatures for inside the rental unit. I was therefore unable to determine that the inside temperatures were uncomfortable or that the tenant was impacted due to the non-functioning boiler system.

I therefore dismiss the tenant's request ordering the landlord to provide an essential service.

Also I accept that the landlord will shortly replace the heating system and I therefore dismiss the tenant's request for an order directing the landlord to comply with the Act.

As I have determined that determined that the tenant submitted insufficient evidence that he was deprived of a service essential to the use of the rental unit as a living accommodation as of this date, I likewise dismiss the tenant's request for a reduction in rent and for monetary compensation.

I also considered that the tenant failed to take advantage of the landlord's offer for an electric heater and to pay for the difference in hydro costs, which led me to conclude that the tenant failed to minimize his loss.

Due to the above, I dismiss the tenant's application.

The tenant, however, is at liberty to reapply in the event the heating system is not replaced promptly so that he can verify that the heat was an essential service and in a reasonable amount of time, as submitted by the landlord.

Conclusion

The tenant's application is dismissed.

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: August 21, 2014

Residential Tenancy Branch

