



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR, ERP, FF, MNR, RR, OPR,

Introduction

This decision deals with two applications for dispute resolution, one brought by the tenant(s), and one brought by the landlord(s). Both files were heard together.

The tenant's application is a request to cancel a Notice to End Tenancy that was given for nonpayment of rent, a request for recovery of the cost of emergency repairs in the amount of \$696.76, and a request for recovery of the \$50.00 filing fee.

Landlord's application is a request for an Order of Possession based on a Notice to End Tenancy for nonpayment of rent, and a request for a monetary order for outstanding rent totaling \$696.76.

Issue(s) to be Decided

The issue to decide is whether or not the tenant had the right to deduct money from the rent for repairs that were done to the furnace in the rental property.

Background and Evidence

On December 24, 2014 the furnace in the rental unit broke down and was only blowing cold air.

The tenant contacted the landlord and the landlord instructed the tenant to contact the heating company whose name was on the sticker on the furnace.

The tenant contacted the heating company and was informed that they would be unable to attend to do the repair until December 29, 2014.

The landlord and tenant therefore had another conversation; however the landlord and tenants versions of this conversation vary.

The tenant testified that the he had another furnace company that could come and do the repair and the landlord told him to go ahead and call him back if he had any problems.

The tenant states that he therefore had the other heating company come in and the repair, and he therefore believes that the invoices provided to the landlord should be deducted from the January 2015 rent as emergency repair costs.

The landlord testified that the tenant told him he would call the original heating company back to confirm whether or not they could come out earlier and did state that he called another company to see if they could come of service the furnace.

The landlord further stated that he did not authorize the tenant to have the other company do the repair and in fact he informed the tenant that he was to call him back once he heard back from the original heating company, however he never heard back from the tenant.

The landlord further stated that he had even offered electric supplementary heaters to the tenant but they had been refused.

The landlord claims it was not until he went to collect the rent for January 2015 that the tenant presented him with the invoices for the furnace repair and told him that it was done by another heating company.

The landlord stated that since the repair was not authorized, and could have been done by his heating company (he even had some of the required parts), the tenant should not have the right to deduct the invoices from the January 2015 rent.

The landlord is asking that the tenant either pay the outstanding amount, or that an Order of Possession be issued.

Analysis

It is my finding that this problem with the furnace does qualify as an emergency repair and therefore the tenant did have the right to deduct the amount from the rent, after he providing the landlord with copies of the repair invoices.

When a tenant contacts a landlord for an emergency repair to the main heating system to the rental unit, the landlord is obligated to ensure that the heating system is repaired in a timely manner. In this case however it appears the landlord, rather than arranging

the repair himself, relied upon the tenant to make arrangements to have the repair done.

As stated previously the landlord claims that he only authorized the tenant to use the company whose name was on the furnace, however the landlord did admit that the tenant informed him he had also contacted another company, and it's my finding that there may well of been a misunderstanding between the landlord and the tenant with regards to whether or not the tenant was to use the original company or the new company that the tenant contact.

It's my decision therefore that I will allow the tenants claim for emergency repairs totaling \$696.76 and I find that there is no rent outstanding for the month of January 2015.

Further since I am finding in favor of the tenant I also allow the tenants request for recovery of the \$50.00 filing fee.

Conclusion

The Notice to End Tenancy dated January 2, 2014 is hereby canceled and this tenancy continues. I further Order that the tenant may make a one-time deduction of \$50.00 from future rent payable to the landlord to cover the cost of the filing fee.

The landlord's application is dismissed in full 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: January 26, 2015

Residential Tenancy Branch

