



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ERP RR MN RR

Introduction

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

- a) That the landlord do emergency repairs pursuant to section 32; and
- b) That the landlord repair and maintain the property pursuant to section 33.
- c) A monetary order for a rent rebate of \$2400.

Service:

The tenant /applicant did not attend the hearing. The landlord said he received the tenant's Application for Dispute Resolution by registered mail. I find the documents were legally served for the purposes of this hearing.

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has not maintained the property contrary to sections 32 and 33 of the Act and are they entitled to orders that the landlord do necessary repairs and to a monetary order or a rent rebate for devaluation of their tenancy by lack of heat in some rooms?

Background and Evidence

The tenant/applicant did not attend. After waiting ten minutes, the hearing commenced in their absence and the landlord was given opportunity to be heard, to provide evidence and to make submissions. The undisputed evidence is that the tenancy commenced in January 2014 for a fixed term lease to January 31, 2015. Rent is \$1200 a month and a security deposit of \$600 was paid.

The landlord testified that the tenant was asking for rent reductions of \$200 a month at first. An agent had rented the unit for her as she is from another country. She complained about the heating and cooling in the unit and the landlord first had the downstairs tenant show her how to adjust the thermostat for it was rather complicated. The downstairs tenant shared the heating and said he found no problem with the heating or cooling. However, the tenant complained again through her agent in July 2014 but when they returned his call, the agent said he was no longer representing her as she had changed schools for her child. This was a problem as English is a second language for the tenant.

However, the landlord wanted to do all he could to resolve the matter so in September he had the thermostat changed to a simpler version that he thought the tenant could operate, he had the filters changed and on a second visit from the service people, he had the air flow checked.

Nothing was found to be wrong with the furnace and the service person had it produce heat to 95 degrees Fahrenheit. The landlord said he had tenants in the past and there is currently one downstairs sharing the same heating system and none of them have ever complained about the heat. These tenants sleep on the floor and mattresses covered the vents in the bedrooms; the landlord suggested this, combined with their frugality in not setting the furnace temperature high enough, may have been the cause of their problems.

In evidence are invoices for service persons for furnace check ups, emails, photographs and hydro bills. On the basis of the documentary and solemnly sworn evidence, a decision has been reached.

Analysis:

The onus is on the applicant to prove on a balance of probabilities their claim. I find the tenant has not satisfied the onus. I find the landlord's evidence credible that he has not through act or neglect caused the tenant to suffer loss of heat anywhere in the home. His evidence is well supported by the invoices of professionals who attended to change the thermostat and test the furnace. Although the tenant submitted a statement, she did not attend to support her statement and she proved no professional opinions of the heat problems in the home. I find it most likely that her problems, if they existed, were due to blockage of the heat vents by mattresses or by her keeping the thermostat very low for financial reasons. For these reasons, I dismiss the application of the tenant.

Conclusion

I dismiss the application of the tenant in its entirety without leave to reapply and find her not entitled to recover filing fees due to her lack of success.

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 13, 2015

Residential Tenancy Branch

