



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: MNDC, OLC, RP, RR, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order for compensation under the *Act* and for the recovery of the filing fee. The tenant also applied for an order directing the landlord to comply with the *Act*, carry out repairs and reduce rent.

Both parties attended the hearing and had opportunity to be heard. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

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Issue to be Decided

Did the landlord fail to provide the tenant with services that are included in the rent? Is the tenant entitled to compensation? Is the landlord negligent with regard to maintenance of the rental unit?

Background and Evidence

The tenancy began on September 01, 2014. The monthly rent is \$950.00 due on the first of each month. The rental unit is located in the basement of a three level home. The landlord lives upstairs. The middle level contains two rental suites and is occupied by tenants.

The tenant stated that at the start of tenancy, on September 02, 2014 he verbally notified the landlord about the leaking refrigerator and requested the landlord to either repair or replace it. The landlord testified that the tenant notified her on November 06, 2014 and she sent in a repair man the next day. The tenant was required to defrost the refrigerator from time to time and was instructed to do so. The landlord testified that she ordered a new refrigerator and delivered it to the tenant at the end of December. The landlord also testified that she did not hear back from the tenant and inquired about the refrigerator when she met him to pick up rent in January 2015.

The landlord stated that she was surprised to receive the notice of hearing on January 19, 2015. She stated that the tenant still uses the old refrigerator. The tenant stated that the new one is smaller than the old refrigerator and therefore he continues to use the old one to make up for the loss of refrigerator space.

The tenant complained that the landlord does laundry late at night and disturbs him. The landlord denied the allegations and filed into evidence a letter from one of the other occupants of the home to support her testimony.

The tenant also stated that the toilet needs to be bolted to the floor and the stove needs to be repaired as only two of the four elements are functional

The tenant has applied for compensation in the amount of \$1,200.00 for loss of quiet enjoyment due to noise disturbances from the late night use of laundry, for the loss of refrigerator space and the loss of the full use of four heating elements on the stove

Analysis

Based on the sworn testimony of both parties I find that the refrigerator was a service that was included in the rent. The landlord responded to the tenant's complaint in a timely manner but replaced the appliance with a smaller size. Therefore the tenant is entitled to a refrigerator which is the same size as at the time the tenancy started. Since the tenant is still using the old refrigerator to compensate for the loss of space, I find that the tenant is not entitled to compensation. However, since the old refrigerator is problematic and requires defrosting, I order the landlord to remove the old refrigerator and either replace the smaller refrigerator with a larger size or provide a second refrigerator to compensate for the loss of refrigerator space. The landlord must provide this service on or before March 15, 2015. The tenant has the option of applying for a rent reduction in the event that the landlord does not comply with this order.

I further order the landlord to restore the stove to its full capacity of four heating elements and to have the toilet bolted to the floor. This must be completed by March 15, 2015.

I also order the landlord to ensure that the laundry facility is not in use between the hours of 10:00 pm to 7:00 am.

Residential Tenancy Policy Guideline #16 states that an arbitrator may award "nominal damages" which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right.

Based on the testimony of both parties, I find that the tenant was inconvenienced by the loss of refrigerator space and the partial loss of use of the stove. Accordingly I award the tenant \$50.00 as compensation for this loss.

Since the tenant has been partially successful in his application, he is entitled to the recovery of the filing fee of \$50.00.

Overall the tenant has established a claim of \$100.00.

Conclusion

I order the landlord to provide the tenant with the same amount of refrigerator space as at the start of tenancy and to carry out repairs to the toilet and the stove, on or before March 15, 2015.

I further order the landlord to ensure immediately, that the laundry facility is not in use between the hours of 10:00 pm to 7:00 am.

The tenant may make a onetime deduction of \$100.00 from a future rent.

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: February 13, 2015

Residential Tenancy Branch

