



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 the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67. I confirmed with the tenant that his claim is in relation to alleged hot water deficiencies over a period of two weeks. The tenant seeks \$200.00 in compensation.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The landlord confirmed receipt of all of the tenant's evidence. Neither party elected to call witnesses.

Issue(s) to be Decided

Is the tenant entitled to a monetary award for compensation for damage or loss under the Act, regulation or tenancy agreement?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the tenant's claim and my findings around it are set out below.

This tenancy began in 2012 and ended 31 December 2014. The tenant paid monthly rent of \$812.00, which included hot water. There is a written tenancy agreement. I was not provided with it.

The landlord is a successor landlord. The landlord took ownership of the rental unit on or about 1 November 2014. The former landlord vacated the upper unit of the

residential property on 1 November 2014. The upper unit remained vacant for some time.

The tenant testified that on or about 1 November 2014 he noticed that the hot water was insufficient. The tenant testified that there would be enough warm water for approximately three minutes of his shower and then the water would run cold. The tenant testified that there were various other issues in the tenancy that were of higher priority and that he did not immediately raise the issue with the landlord.

The tenant testified that in approximately the second week of November he contacted the landlord's agent by telephone. The tenant personally delivered a handwritten note to the agent on 12 November 2014 that reiterated the tenant's hot-water issue. The landlord testified that, on 12 November 2014, she received a call from the agent advising her of the tenant's complaint.

The tenant testified that on or about 15 November 2014, he heard someone upstairs. The tenant testified that he knocked on the door of the upstairs unit. The tenant testified that the landlord answered the door. The tenant asked to be let into the upstairs unit to check the settings on the hot water tank. The landlord denied the tenant entry.

The landlord testified that she and her family members ran the hot water and found there to be sufficient hot water. The landlord testified that she and her daughters took showers the next morning and found there to be sufficient hot water. The landlord testified that she contacted a plumber who advised her that when the upper unit was vacant it would take longer for hot water to reach the lower unit and that the water may need to run for a while before it becomes hot. The landlord testified that she did not make any adjustments to the hot water.

The tenant testified that after 15 November 2014 the hot water returned to pre-1 November 2014 levels.

Analysis

Subsection 32(1) of the Act requires a landlord to maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by the tenant.

The tenant has testified that there was insufficient hot water. The tenant hypothesized that the landlord had turned down the temperature on the hot-water tank. The landlord

testified that she did not change any settings on the hot-water tank. The landlord testified that she was first notified of any problem with the hot water on 12 November 2014 and that when she investigated on 15 November 2014, there was sufficient hot water. The landlord testified that a plumber told her that if the upper unit was vacant that hot water may take longer to reach the rental unit.

I accept the landlord's evidence that she did not alter the settings of the hot-water tank. The tenant did not have actual knowledge of whether or not the landlord changed the water settings. As such, I prefer the evidence of the landlord that she did not make any changes as alleged. I find, on a balance of probabilities, that any issues with hot water reaching the lower unit were the result of the upstairs unit being vacant. On this basis, I find that the landlord maintained the property in a state of repair that complies with the health safety and housing standards required by law. As such, the landlord has not breached subsection 32(1) of the Act. As the landlord has not breached the Act, regulations or tenancy agreement, the tenant is not entitled to compensation pursuant to section 67 of the Act.

Conclusion

The tenant's claim is dismissed without leave to reapply.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under subsection 9.1(1) of the Act.

Dated: July 14, 2015

Residential Tenancy Branch

