



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Community Builders Benevolence Group
#0955802 BC Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

MNDC; OLC; ERP; RP; PSF

Introduction

This is the Tenant's Application for Dispute Resolution seeking compensation for damage or loss under the Act, regulation or tenancy agreement; and Orders that the Landlords comply with the Act, regulation or tenancy agreement, make regular and emergency repairs to the rental unit, and provide the Tenant with services or facilities required by law.

The parties gave affirmed testimony at the Hearing.

It was determined that the Tenant hand delivered the Notice of Hearing documents and copies of his documentary evidence to the Landlords on July 22, 2015. It was also determined that the Landlord provided the Tenant with copies of its documentary evidence.

Preliminary Matter

At the outset of the hearing, the Landlords' agents sought to have the individual persons named in the Tenant's Application removed as parties.

In his current Application for Dispute Resolution, filed July 22, 2015, the Tenant seeks to enforce the terms of a settlement agreement which was made at a previous Hearing on July 2, 2015. A copy of that Decision was provided in evidence. The parties to the settlement agreement reached on July 2, 2015, included only the corporate Landlords.

The Tenant now essentially seeks to amend the settlement agreement to include agents for the corporate Landlords. These agents were not named on the original Application and were not parties to the settlement agreement. Therefore, pursuant to the provisions of Section 64(3)(c) of the Act, I amended the Tenant's Application filed July 22, 2015, to remove the names of the individual persons as "Respondent(s)/Landlord(s)".

Issues to Be Decided

- Have the Landlords complied with the terms of the settlement agreement as set out in the Decision dated July 2, 2015? If not, should the Landlords be ordered to comply with the settlement agreement?

- Is the Tenant entitled to further compensation for damage or loss?

Background and Evidence

On July 2, 2015, the parties came to the following agreement, pursuant to the provisions of Section 63 of the Act:

1. The landlord agrees to have a licensed radiant heating professional attend the rental unit by July 16, 2015 to determine if the radiant heater provided by the tenants' agent can be re-installed in the rental unit to working condition.
2. If the licensed heating professional referred to in #1 above determines that the radiant heating system cannot be repaired in the rental unit in writing, the landlord agrees to arrange to purchase and install an electric radiant heater and ensure that the electrical system will be sufficient to run the electrical radiant heater.
3. If #2 above results in the entire building or floor needing to be re-wired, the parties agree that the landlord will accommodate the tenant in a different rental unit on the same floor (floor 3) with radiant heating as soon as possible.
4. The parties agree that due to there being no heat source in the rental unit between July 1, 2014 and the date of this hearing, the landlord agrees to a one-time rent abatement of \$375 as compensation. This means that the rent for the tenant for August 2015 will be \$412 less \$375 for a total of \$37 in rent for August 2015.
5. The parties agree that any deficiencies with the rental unit will be made in writing and sent to the current tenant support worker with a copy to the current Director, by email or by written document hand delivered. The name and email addresses of the tenant support worker and the Director were provided and confirmed by the parties during the hearing. Any responses to alleged deficiencies should be responded to in writing.

The Landlords' agents stated that they complied with paragraph 4 of the settlement agreement but that they had not taken steps to comply with paragraphs 1 or 2. They testified that they already had a licensed plumber come to the building "in February" to assess the building and were told that it would be too costly to renovate the rental property, which was built in 1910. The Landlord's agents submitted that they have offered the Tenant two different rooms on the same floor, but that he does not wish to move.

The parties confirmed that the Tenant was provided with rent abatement in the equivalent of \$75.00 per month to compensate him for the lack of a heat source in the rental unit.

Analysis

A settlement agreement reached under the provisions of Section 63 of the Act is final and binding upon both parties.

I cannot re-hear and change or vary a matter already heard and decided upon as I am bound by the earlier decision, under the legal principle of *res judicata*. *Res judicata* is a rule in law that a final decision, determined by an Officer with proper jurisdiction and made on the merits of the

claim, is conclusive as to the rights of the parties and constitutes an absolute bar to a subsequent Application involving the same claim.

I ORDER that the Landlord comply with paragraphs 1 and 2 of the Decision dated July 2, 2015, except that the date for compliance is extended to September 30, 2015.

During the Hearing, I had considered adjourning this matter to allow the Landlord time to comply; however, on reconsideration, I find that it is not necessary to do so. I ORDER monthly rent abatement in the amount of \$75.00 until the Tenant's heat is restored. This abatement is effective September 1, 2015, and will continue until the Landlord has complied with paragraphs 1 and 2 of the July 2, 2015, Decision. It will be the responsibility of the Landlord to file an Application to have the rent abatement cancelled.

For clarity, commencing September 1, 2015, monthly rent is \$337.00. I advised the parties about this rent abatement during the Hearing, but if the Tenant paid \$412.00 for September's rent, he may deduct September's abatement from October's rent.

Conclusion

I ORDER monthly rent abatement in the amount of \$75.00, commencing September 1, 2015, and continuing until the Tenant's heat is restored.

I ORDER that the Landlord comply with paragraphs 1 and 2 of the Decision dated July 2, 2015, except that the date for compliance is extended to September 30, 2015.

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: September 03, 2015

Residential Tenancy Branch

