



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding R.L.B HOLDINGS LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, RR, FF

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the Act) for:

- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

The landlord did not attend this hearing, although I waited until 1030 in order to enable the landlord to connect with this teleconference hearing scheduled for 0930. The tenant attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenant testified that he served the landlord with the dispute resolution package on 9 December 2015 by registered mail. The tenant provided me with a Canada Post tracking number that showed the same. The tenant testified that he used the address for service set out on his last notice of rent increase. On the basis of this evidence, I am satisfied that the landlords was deemed served with the dispute resolution package pursuant to sections 89 and 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order that the landlord make emergency repairs to the rental unit? Is the tenant entitled to a reduction in rent for a reduction in the value of the tenancy agreement? Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the tenant, 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 1 March 2007. Monthly rent of \$825.00 is due on the first. The tenant testified that heat is included in his rent.

The tenant testified that since the beginning of his tenancy the heater has produced insufficient heat. The tenant testified that if the heat is set to its highest possible setting, it will maintain a temperature of 15 or 16 degrees Celsius. The tenant testified that two years into his tenancy he purchased a portable heater to assist in heating the rental unit. The tenant testified that the landlord's agent has attended at the rental unit three or four times to fix the heating issue. The tenant testified that the landlord's agent said it would take three or four months to get a part for the repair.

The tenant testified that he has regularly complained about the inadequate heating to the landlord's agent. On 24 November 2015, the tenant sent a letter of complaint to the landlord by registered mail. The letter set out that the toilet is leaking and the heat is inadequate.

The tenant testified that he decided to bring this application after receiving his latest notice of rent increase.

The tenant testified that the toilet developed a slow leak approximately one year ago. The tenant testified that the landlord repaired the toilet two or three months ago.

The tenant asks for a rent reduction of \$75.00 per month to compensate him for the inadequate heating. The tenant testified that his last electricity bill was \$81.00 for the two month period from 16 October 2015 to 16 December 2015.

The tenant asks for the registered mail cost of serving the dispute resolution package.

The tenant's application for dispute resolution sets out in the details of dispute:

Toilet is leaking over a year no repairs done to the problem.

Analysis

The tenant's application sets out that he is seeking an order for emergency repairs. The details of dispute make reference only to the toilet. At the hearing, the tenant informed me he sought an order that the landlord make repairs to the heating system in the rental unit. Further, the tenant sought a monthly rent reduction of \$75.00 and compensation for his registered mail costs.

Pursuant to paragraph 59(2)(b), an application of dispute resolution must include the full particulars of the dispute that is to be the subject of the dispute resolution proceedings. The purpose of the provision is to provide the responding party with enough information to know the applicant's case so that the respondent might defend him or herself.

I find that the tenant did not sufficiently set out the details of his dispute in such a way that the landlord would have known that it needed to respond to any issue other than the toilet. On this basis, the only issue that is properly before me is the repair to the toilet.

The tenant has admitted that the toilet is no longer a problem and it is now inadequate heating that vexes him. While, I understand that the inadequate heating would be very frustrating to the tenant, without a proper application before me in respect of that particular repair, I am unable to make any order to the landlord requiring repairs to the heat. Similarly, any order with respect to a rent reduction would also require the landlord to be put on notice that the rent reduction is sought as a result of inadequate heat. On this basis, I cannot consider the tenant's application for the rent reduction in respect of the lack of heat, as the issue is not properly before me.

The tenant has claimed for his costs associated with serving documents in these proceedings. This cost is best characterized as a "disbursement" incurred in the course of these proceedings.

Section 72 of the Act allows for repayment of fees for starting dispute resolution proceedings and charged by the Residential Tenancy Branch. While provisions regarding costs are provided for in court proceedings, they are specifically not included in the Act. I conclude that this exclusion is intentional and includes disbursement costs. Furthermore, I find that disbursements are not properly compensable pursuant to section 67 of the Act as the landlord's contravention of the Act is not the proximate cause of the expense.

I find that the tenant is not entitled to compensation for the tenant's disbursement costs as disbursements are not a cost that is compensable under the Act.

As the tenant was not successful in his application, he is not entitled to recover the filing fee from the landlord.

The landlord is cautioned that failure to provide heat (if provided for under the tenancy agreement) may result in a successful future application from the tenant for repairs and compensation.

Conclusion

The tenant's claim for repairs to the toilet is dismissed as the issue is resolved.

The tenant's claim for repairs to the heating system is dismissed with leave to reapply as the issue was not properly set out in the tenant's application.

The tenant's claim for a rent reduction for the landlord's failure to provide adequate heat is dismissed with leave to reapply as the issue was not properly set out in the tenant's application.

The tenant's claim for the cost of his registered mail is dismissed.

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: January 28, 2016

Residential Tenancy Branch

