



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 1025381 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes: *MNR, RP, RR, FF.*

Introduction

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for utilities owed by the tenant and for the recovery of the filing fee. The tenant applied for an order directing the landlord to carry out repairs and to provide a rent reduction. The tenant also applied for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The parties acknowledged receipt of evidence submitted by the other and gave affirmed testimony.

Issues to be decided

Is the landlord entitled to a monetary order for the cost of utilities and for the filing fee?
Is the landlord negligent with regard to maintenance of the rental unit? Is the tenant entitled to a rent reduction and to the recovery of the filing fee?

Background and Evidence

The rental unit consists of a two level home with a basement. Each of the two floors has two bedrooms rented out separately to individual tenants. The tenant occupies a room on the upper floor. The entire basement is rented out to a single family. The monthly rent that the tenant pays for his room and shared common areas is \$400.00, due on the first of each month. The tenant is also required to pay 15% of the utility bill.

The tenant stated that the home is maintained at a temperature that he finds too cold. In October 2015, the tenant complained about the lack of heat, to the landlord. On October 26, 2015, the landlord had the furnace and boiler serviced and tuned. The landlord filed an invoice and a report from the technician who performed the service. The report states that the equipment is in good working order and does not need any additional work.

The tenant argued that the technician is not qualified to service the furnace and his report about its condition is inaccurate. The tenant stated that he is a gas fitter with qualifications from another Province and therefore he is knowledgeable about the heating system. The tenant spoke about reporting the technician and the landlord to the appropriate authorities and about his intentions to take legal action against them.

The landlord visited the tenant on November 17, 2015 and stated that he found the heating adequate in the rental unit. Despite his observations, he offered the tenant a portable heater which the tenant refused. The tenant requested the landlord to provide him with a thermometer to keep track of the room temperature and the landlord complied.

The thermostat is located on the first floor and all tenants have access to it. The tenant agreed that he increased the heat on three occasions. The other tenants complained that the heating was excessive to the point of discomfort. The other occupant of the second floor describes the situation in a letter to the landlord. The letter states that the tenant wears shorts and a t-shirt and opens a window and that is the reason he finds the heat inadequate. The tenant denied opening a window but agreed that he wears shorts and a t-shirt at home.

During the hearing, the landlord agreed to supply the tenant with a portable heater for his room, on February 03, 2016. The landlord has applied for the tenant's share of utilities in the amount of \$94.99. The tenant agreed that he owed this amount.

Landlord's application

The tenant agreed that he owes \$94.99 towards his share of utilities. Since the landlord has proven his claim, he is also entitled to the recovery of the filing fee in the amount of \$50.00 for a total entitlement of \$144.99.

Tenant's application

Section 32 of the *Residential Tenancy Act*, addresses the landlord and tenant obligation to repair and maintain the rental unit. The landlord must provide and maintain the rental property in a state of decoration and repair that complies with the health, safety and housing standards required by law. It is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises.

The landlord filed evidence to show that he responded to the tenant's complaint in a timely manner and had the heating system professionally serviced.

The report indicated that the system was in good working order and did not require further work. The landlord also filed a copy of a letter from the occupant of the other room on the tenant's floor. She states that the tenant increases the temperature in the home by adjusting the thermostat which makes all the other occupants uncomfortable. She also stated that the tenant opens a window at night and wears very light clothing.

Based on the sworn testimony of both parties, I find that the landlord acted responsibly and responded to the tenant's complaint in a timely manner. The landlord is not responsible for providing additional heat to suit the tenant's personal needs.

Since the heating system is in good working order, I find that repairs are not necessary and that the tenant is not entitled to a rent reduction. I find that the tenant has not proven that the landlord failed to meet his obligations under the *Act*, with regard to providing services and facilities that are essential to the tenant's use of the rental unit as living accommodation.

The tenant has not proven his case and is therefore not entitled to recover the filing fee of \$50.00.

Conclusion

The landlord has established a claim in the total amount of \$144.99. I grant the landlord an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

The tenant's application is dismissed in its entirety.

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 02, 2016

Residential Tenancy Branch

