



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute codes      ERP MNDC RR FF

### 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;
- an order for emergencies repairs and an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The hearing was conducted by conference call. All named parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The tenant's representative acknowledged receipt of the landlord's evidence package dated January 16, 2017 which is the only evidence on file.

At the outset of the hearing, the tenant's representative advised that the emergency repairs in dispute had been completed since the filing of the application. The tenant's representative withdrew the claim for an order for emergency repairs as well as for compensation for damage or loss.

### Issues

Is the tenant entitled to reduce rent?

Is the tenant entitled to recover the filing fee for this application from the landlord?

### Background & Evidence

The rental unit is an apartment in an 86 unit apartment building built in 1975. The tenancy began on July 1, 2015 with a current monthly rent of \$1060.00 payable on the 1<sup>st</sup> day of each month.

The tenant is seeking a rent reduction equivalent to two month's rent for the landlord's failure to provide the essential services of heat and hot water as per the tenancy agreement. The tenant's representative submits as follows:

- Starting early November 2016 they noticed there was limited heat and no hot water in the rental unit.
- They reported the issue to the building manager but were advised that the issue was the result of usage during peak usage times.
- The problems with heat and hot water continued for several weeks and they repeatedly informed the building manager of the problem but their complaints were ignored.
- In early December 2016, they contacted the property manager directly and only then were there some actions taken by the landlord.
- For a period of two months, they had only luke warm water and had to make use of space heaters to heat the unit.
- Repairs were completed in early January 2017 and the issues with heat and hot water were rectified.

The landlord disputes the tenant's claim and submits as follows:

- They became aware of the issue in early December due to a noticeable spike in gas usage.
- In first week of December, they had a plumbing company inspect the boiler system.
- The landlord submitted a repair order dated December 5, 2016 indicating the blower assembly required replacement and the parts would be 1-2 weeks away.
- The landlord submitted a copy of the work order indicating the parts were order on rush delivery on December 8, 2016.
- The work order was completed on January 5, 2017.
- Prior to the repair work being completed, an inspection was done on the baseboard heaters of the tenant's rental unit by the plumbing company. The landlord submits a report of this inspection indicating that the temperature reading was 107 degrees Fahrenheit. As per the inspection report this reading

is within the manufacture's parameters taking into account its age and the unusually cold extended weather conditions the region was experiencing.

- The landlord submitted a temperature reading comparison according to which the average reading in December 2016 was 1 degree Celsius as compared to 5 degrees in December 2014 and December 2015.
- The landlord submits that there was not a complete lack of heat and hot water as alleged by the tenant. The building is very old as it was built in 1975 and there is one boiler system which provides the heat and hot water to all 86 units in the building.
- The tenant's did not communicate any complaints with the heat or hot water until December 2016.
- The landlord submits the tenant continued to occupy and use the rental unit over the 2 month period for which they are claiming a rent reduction.

### Analysis

Pursuant to section 65(1)(f) of the Act, if the director finds that a landlord has not complied with the Act, the regulations or the tenancy agreement, the director may issue an order to reduce past or future rent by an amount equivalent to a reduction in the value of a tenancy agreement.

The burden of proof in this case lies with the applicant tenant. I find the tenant has not provided sufficient evidence to support that there was a lack of heat and hot water beginning in November 2016 and that this issue was reported to the landlord at this time. I accept the landlord's evidence that they took appropriate action to repair the boiler within a reasonable period after becoming aware of the problem. It was not disputed that there was an issue with the heat and hot water during the month of December 2016. However, I find the tenant has not provided sufficient evidence in support of the claim that there was limited heat and no water for this month. Rather, I accept the landlord's evidence that heat and hot water was still working but inconsistently. The temperature reading taken of the tenant's baseboard heaters prior to the repairs and the below average temperatures in the region support this finding.

As the heat and hot water is a requirement of the tenancy agreement and it was not provided on a consistent basis for the month of December 2016, I find the tenant did suffer a reduction in the value of the tenancy for this month. As the tenant's continued to occupy and make use of the rental unit during this period, it is difficult to quantify the reduction in the value. I also note that with the use of space heaters, the tenants were able to alleviate some of the heating concerns. I find the tenant is entitled to the nominal amount of \$100.00 in reduction of rent for the month of December 2016.

As the tenant was only partly successful in this application, I find that the tenant is not entitled to recover the \$100.00 filing fee paid for this application from the landlord. The tenant may reduce a future rent payment in the amount of \$100.00.

Conclusion

I find the tenant is entitled to the nominal amount of \$100.00 in reduction of rent for the month of December 2016. The tenant may reduce a future rent payment in the amount of \$100.00.

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: January 24, 2017

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Residential Tenancy Branch