



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Hollyburn Properties Limited
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes CNR, LRE, OLC, MNDC, FF

Introduction

This is an application brought by the tenant requesting an order canceling a Notice to End Tenancy, requesting an order suspending or setting conditions on the landlord's right to enter the rental unit, requesting an order for the landlord to comply with the Act, Regulations or tenancy agreement, requesting a monetary order for \$25,000.00, and requesting recovery of the \$100.00 filing fee.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all relevant submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All parties were affirmed.

Issue(s) to be Decided

By the date of the hearing the tenant had already vacated the rental unit, and therefore the only issue left to deal with is whether or not the applicant has established monetary claim against the respondents, and if so in what amount.

Background and Evidence

This tenancy began on February 1, 2014 with a monthly rent of \$1315.00 due on the first of each month.

By the end of the tenancy the monthly rent had increased to \$1386.00.

The tenants full security deposit was returned to the tenant at the end of the tenancy. The tenant testified that the landlords have not supplied heat to the rental unit for the full term of the tenancy and therefore for a period of two years and nine months she has had no heat.

The tenant further testified that an inspection was done on October 7, 2016 and that report shows there was no heat, as the bedroom heater was not working.

The tenant further testified that the rental unit was freezing when she moved in and that the landlord came twice but did nothing to fix it.

The tenant further testified that her rental unit was so cold that she lost a roommate who was going to rent with her however when the roommate found out that an extra electric heater was required she decided not to move in.

The tenant further testified that nothing was done to rectify the situation with the heat until after she informed the landlords that she had filed a report with the city.

The tenants further testified that the landlords have disturbed her privacy, and that in 2014 the building manager entered her unit without permission and therefore she change the locks.

The tenant further testified that in September of 2016 the landlord started harassing her to try and get her to move and on one occasion banged on the door and rattled the door attempting to get in.

The tenant further testified that the tenants above her rental unit were making noise to harass her in attempt to get her to move out of the rental unit and she believes the landlords were somehow involved in this harassment. As a result of this harassment she filed a police report, however, even after the report was filed, the harassment continued including the landlords breaking into her mailbox.

The tenant had originally been claiming the following:

Home inspection of heating system	\$313.95
Canada post registered mail	\$14.86
Seven months loss of heat 2014	\$9205.00

Seven months loss of heat 2015	\$9415.00
Three months loss of heat 2016	\$4158.00
Disturbance of privacy	\$1315.00
Total	\$24421.81

The tenant subsequently filed an amendment of the application raising her claim to the full \$25,000.00 allowed under the Residential Tenancy Act.

At the hearing however the tenant stated that rather than claiming a full months rent for each month she was without heat in the winter she is reducing the claim to one half months rent and therefore her total reduced claim comes to \$13,746.45.

In response to the tenants testimony, the landlords testified that the tenant moved into the rental unit in February of 2014 and at that time she stated that the rental unit was not warm enough, and therefore they had a contractor come in and ensure that the heating system was working properly, and they also provided extra electric heaters to the tenant.

The landlords further testified that from 2014 through to the date of this claim they got no maintenance requests from the tenant regarding a problem with the heat, and even when the contractor did check the tenants heating system on October 18, 2016 they found that the heat was working fine in the majority of the rental unit and in fact the temperature was 73°F in the main living room, with the window open, and was even 70°F in the bedroom where there was a problem of an airlock and the heater, which they rectified immediately. Even the City inspector, who attended at the same time, found that there was no problem with the heating system.

The landlords therefore do not believe that the tenant should receive any rent rebates for alleged problems with the heating system because, first of all no complaints were filed, and secondly the system was found to be working fine other than a small problem in the bedroom which was rectified immediately once it was found.

With regards to the tenants claim of an illegal entry to the rental unit in 2014, the manager at that time understood that he had the tenants permission to enter the rental unit to do a repair, and this certainly was not done as a form of harassment.

With regards to the tenants claim of harassment by the manager in 2016, this was not harassment, this was an attempt by the manager to contact the tenant as a result of a major leak in one of the suites below this tenant suite and they were trying to ensure

that the tenants, in the suites above the suite with the leak, were not running water or flushing toilets. The manager was quite persistent as he could hear the tenant inside and since this was an urgent matter he was attempting to get her to answer the door, however she never did.

With regards to the tenants claim that they colluded with the tenants above this tenant to have them harass her, they deny any involvement in any alleged harassment from the tenants above this tenant.

The landlords therefore believe that the tenants full claim should be dismissed.

Analysis

It is my decision that the tenant has not met the burden of proving any of her claims against the landlord.

The tenant claims that there was no heat in the rental unit for the full term of her tenancy however she has provided insufficient evidence to substantiate that claim.

The tenant did file a maintenance request at the beginning of the tenancy however the landlord has provided evidence that shows that the landlords promptly dealt with that request, and that the heat was working once the maintenance request was finalized.

Further, the tenant has provided no evidence of any other request for maintenance to the heating system during the remainder of the tenancy until near the very end of the tenancy, and again it's my finding that the landlords have shown that that request was also dealt with promptly, and that the one minor heating issue were rectified.

It is also my decision that the tenant has not established a claim against the landlord for harassment.

With regards to the tenants claim of illegal entry by the landlord in 2014, I accept the landlords testimony that this was the result of a misunderstanding, and certainly one incident would not be reasonable grounds for a major rent reduction.

It is also my finding that the tenant has provided no evidence to show that the landlords had any involvement in any alleged harassment from the tenants above her rental suite, nor has the tenant provided any convincing evidence to show that the landlords broke into her mailbox.

It is my decision therefore that I will not allow any of the compensation requested by the tenant.

Conclusion

This application is dismissed in full without leave to reapply.

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 23, 2017

Residential Tenancy Branch