



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC ERP RP RR

Introduction

This hearing was convened as a result of the tenant's application for dispute resolution seeking remedy under the *Residential Tenancy Act* (the "Act"). The tenant applied for a monetary order for money owed or compensation under the Act, regulation or tenancy agreement, an order for the landlord to make emergency repairs for health and safety reasons, to make regular repairs to the rental unit, and for a rent reduction.

The tenant, the landlord and the son/translator for the landlord (the "agent") attended the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party. The evidence related to my findings is referred to below.

The landlord confirmed having received and had the opportunity to review the tenant's documentary evidence. The landlord also confirmed that he did not submit any documentary evidence in response to the tenant's application. I find the landlord was served in accordance with the Act.

Preliminary and Procedural Matter

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application for emergency repairs for health or safety reasons. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request for emergency repairs at this proceeding. The balance of the tenant's application is **dismissed, with leave to re-apply**.

Issue to be Decided

- Should the landlord be ordered to make emergency repairs for health or safety reasons?

Background and Evidence

The parties agree that a month to month tenancy began on February 1, 2016. Monthly rent in the amount of \$1,000.00 is due on the first date of each month. A security deposit of \$500.00 was paid by the tenant at the start of the tenancy which the landlord continues to hold.

The tenant lives in the basement suite with a rental unit upstairs that is rented to other renters (the “renters”). The tenant testified that the renters living above her keep turning off the forced air heating vents and that she does not have heat in her rental unit as a result and that electrical heaters blow the fuses and increase her electrical bills. The landlord confirmed that the home is heated by a forced air furnace system with vents that provide forced air heat to the basement suite. The landlord also confirmed that previously those vents were found to be turned off at an earlier date. The tenant testified that she is sick and needs to have the heat turned on as soon as possible.

The parties disputed an allegation by the landlord that the tenant previously turned off her heating vents. The tenant clarified that during cooking in the kitchen, she may turn off only the kitchen vent if it gets too hot from cooking, but does not turn off the heating vents in the remainder of the rental unit and that currently, there is no heat entering the rental unit and that she is sick.

Analysis

Based on the documentary evidence, the oral testimony, and on the balance of probabilities, I find the following.

Firstly, section 32(1)(a) and (b) of the *Act* applies and states:

Landlord and tenant obligations to repair and maintain

32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

[My emphasis added]

Section 33 of the *Act* also applies and states:

Emergency repairs

33 (1) In this section, "**emergency repairs**" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
 - (i) major leaks in pipes or the roof,
 - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
 - (iii) the primary heating system,
 - (iv) damaged or defective locks that give access to a rental unit,
 - (v) the electrical systems, or
 - (vi) in prescribed circumstances, a rental unit or residential property.

[My emphasis added]

As a result of the above, as the landlord confirmed that the heating vents had been found to have been turned off previously, I am satisfied that the landlord must attend the rental unit upstairs to ensure the heating vents are open, remain open and that the furnace is turned on and functional. Furthermore, I find the landlord is responsible to ensure that the renters living upstairs do not interfere with the tenant's heat for the remainder of the tenancy and I make the following orders pursuant to section 62(3) of the *Act*:

1. **I ORDER** the landlord to ensure the heating vents are open and stay open to allow heat to the basement suite rental unit and to ensure the forced air furnace is turned on and functional for the remainder of the tenancy **no later than March 18, 2017 by 5:00 p.m.**
2. **I ORDER** that if the landlord fails to comply with my Order in #1 above, I authorize the tenant to pay **\$0.00 in rent as per #3 below.**
3. **I ORDER** that if the landlord fails to comply with my Order in #1 above, the rent will remain **\$0.00 per month** until such time that the landlord makes an application for dispute resolution to reinstate rent to the normal amount of \$1,000.00 with sufficient evidence that heating has been fully restored to the rental unit and an arbitrator is satisfied that heat has been restored to the

basement suite rental unit and makes a finding on whether rent should be returned to the amount as listed on the tenancy agreement.

Conclusion

The tenant's application for emergency repairs is successful.

I have made the three orders described above which remain enforceable under the *Act*.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: March 14, 2017

Residential Tenancy Branch