



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNC MNDC OPC FF

Introduction

The owner and the tenant attended the hearing and gave sworn testimony. The owner said the person named as landlord in the Application is the manager who is away fire fighting. Hereinafter, the owner will be referred to as 'the landlord'. The landlord said they served the One Month Notice to End Tenancy dated May 29, 2017 to be effective July 1, 2017 and the tenant vacated on June 28, 2017. The tenant said they served their Application for Dispute Resolution personally and the landlord acknowledged receipt. I find the documents were legally served for the purposes of this hearing pursuant to sections 88 and 89 of the Act. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) To cancel a notice to end tenancy for cause pursuant to section 47; she states this is no longer applicable as she has moved.
- b) To compensate the tenant for withdrawal of necessary facilities contrary to section 27 of the Act and for other losses incurred.

Issue(s) to be Decided:

The remaining issue is whether the tenant has proved on the balance of probabilities that they are entitled to compensation for withdrawal or lack of necessary services and other compensation for loss?

Background and Evidence

Both parties attended the hearing and were given opportunity to be heard, to provide evidence and to make submissions. The tenant said the tenancy commenced October 2016, renovations were to be completed by move-in but were not. There was not a complete kitchen and bathroom but the landlord compensated them by giving them a free month's rent. However, from November to June when they left, there was no heat in their son's bedroom. The heater was hanging off the wall. They estimate the heat was essential from December to April 2017. The owner said they had an electrician go to the home but she is unsure what happened. She needed the tenant to contact her

and two property managers by email at the same time due to schedule problems and the tenant did not do this.

In April 2017, the freezer (door) fell on her. She had sent photographs to the property manager of the faulty hinge but he said he could not contact the owner. The owner agrees she refused to deal with the hinge at the time due to other commitments. As a result, the freezer door hit the oven so the tenant was without the use of the refrigerator for 5 days and the oven for 3 days. She claims \$500, mostly for her lost food although she has no receipts.

On the basis of the documentary and solemnly sworn evidence presented for the hearing, a decision has been reached.

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Analysis:

I find the Application to cancel the Notice to End Tenancy is no longer applicable.

In respect to the tenant's claim for compensation, I find awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

I find section 32 of the *Act* requires the landlord to maintain the home in a condition suitable for occupancy by a tenant. I find section 27 of the *Act* states a landlord cannot terminate an essential service or facility. I find the landlord violated sections 32 and 27 of the *Act* by not providing working heat in one of the bedrooms.

I find Residential Policy Guideline 1 provides a landlord is responsible to repair appliances. Although the refrigerator was replaced within 5 days, I find the neglect of the landlord to address the problem with the freezer hinge caused the problems suffered by the tenant.

For the above reasons, I find the tenant entitled to compensation for their losses. I find them entitled to a rent rebate of \$30 a month for 5 months (December –April) for loss of heat in a bedroom (\$150). I find the weight of the evidence is that the tenant lost food

as the refrigerator was broken and she was unable to cook for several days as the stove was also broken by the freezer door. The tenant requested \$500 compensation in total. Although she had no receipts, I find with a family of 8, it is most probable that she lost food costing at least \$350 which is the balance of her claim.

Conclusion:

I find the tenant entitled to a monetary order for \$500. No filing fee was involved.

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: August 09, 2017

Residential Tenancy Branch