



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

Dispute Codes: MNDC, RP, RR, FF

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order for a monetary order in the sum of \$200
- b. A repair order
- c. An order for the reduction of rent for repairs, services, or facilities agreed upon but not provided
- d. An order to recover the cost of the filing fee

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was served on the landlord by mailing, by registered mail to where the landlords carry on business on September 5, 2017. With respect to each of the applicant's claims I find as follows:

Issues to be Decided

The issues to be decided are as follows:

- a. Whether the tenants are entitled to a monetary order and if so how much?
- b. Whether the tenant is entitled to an order for repairs?
- c. Whether the tenant is entitled to an order for the abatement of past or future rent and if so how much?
- d. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence:

The tenancy began on March 1, 2012. The tenants failed to produce a copy of the tenancy agreement. The landlord testified the tenancy agreement between the tenants and the previous owner was not included with the documents provided to them when they purchased the property about 5 years ago and they do not have a copy of the written tenancy agreement. The present rent is \$695 per month payable in advance on the first day of each month. The tenant(s) paid a security deposit of \$337.50 at the start of the tenancy. Both parties agree that cablevision was included with the rent. They disagree as to what level of cablevision that was to be included.

The tenant testified that up to July 13, 2017 the cablevision package which they received was the Classic package. On that date the Classic package was reduced to a basic package which included a number of additional channels. The tenant testified he has since purchased the upgrade to the Classic package at a cost of \$33.60 per month commencing July 15, 2017.

The landlord testified they have always purchased the same package. However, on July 13, 2017 the cablevision company advised them that the cablevision company had inadvertently been providing more channels than what the landlord had been paying for and they reduced the service to the basic package which is what the landlord had been paying for.

The tenants also seek an order that the landlord clean the furnace ducts. The female tenant has a compromised immune system and the air quality is making her ill. In September the tenants hired a contractor and the ducts were cleaned at a cost of \$509.25. The landlord testified they installed a new furnace in 2013. The ducts have not been cleaned. However the landlord testified they have filters available which they can give the tenants to change. They have offered to install electric heaters. The landlord testified the problem may be caused by the tenants' cats.

Application for a Repair Order

Policy Guideline 1 includes the following:

"FURNACES

1. The landlord is responsible for inspecting and servicing the furnace in accordance with the manufacturer's specifications, or annually where there are no manufacturer's specifications, and is responsible for replacing furnace filters, cleaning heating ducts and ceiling vents as necessary."

I ordered that the landlord maintain and clean the furnace ducts to comply with the provision of Policy Guideline 1.

I do not accept the submission of the landlord that it is the obligation of the tenants to install the furnace filters. The tenants testified the installation of electric heaters would create a fire hazard. The tenants are not required to accept the landlord's offer of electric heaters. Further, this offer does not relieve the landlord from its obligation to comply with the Policy Guideline.

The tenants testified they paid over \$500 to have the ducts cleaned. I determined that I did not have the authority in this application to make an order that the landlord pay this sum of the tenants as this relief was not claimed and the tenants failed to provide the receipt. The tenants have liberty to re-apply as this claim was not part of this application.

Monetary Order:

Section 27 of the Act provides as follows:

Terminating or restricting services or facilities

27 (1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

The parties agree that cablevision was included with the rent. It is open to the landlord to clearly identify in the tenancy agreement precisely what package is included with the rent. A copy of the tenancy agreement was not provided. I determined that in the absence of a term in the tenancy agreement identifying the level of cablevision service provided the tenants were entitled to is the type of service that has been provided since they took possession over 5 years ago. The tenants have been receiving the Classic level of service. I accept the submission of the landlord that the mistake was that of the cablevision company. However, the tenants are entitled to the level of service they have always received. I accept the tenants' testimony they have paid \$33.60 per month to maintain the service they previously had.

As a result I determined the tenants are entitled to a monetary order in the sum of \$184.80 for the restriction on cablevision service for the period July 15, 2017 to December 31, 2017 (\$33.60 x 5.5 months = \$184.80).

Reduction of Rent

I further ordered that the rent be reduced by \$33.60 per month commencing January 1, 2018 and on the first day of each month thereafter until the landlord restores the level of cablevision service that was previously given to the tenants.

Conclusion

I ordered the landlord(s) to pay to the tenant the sum of \$184.80 plus the sum of \$100 in respect of the filing fee for a total of \$284.50 such sum may be deducted from future rent. I further ordered that the rent be reduced by \$33.60 per month commencing January 1, 2018 and on the first day of each month thereafter until the landlord restores the level of cablevision service that was previously given to the tenants.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial Court and enforced as an Order of that Court.

This decision is final and binding on both parties.

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: November 24, 2017

Residential Tenancy Branch