



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BOUNDARY MANAGEMENT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, FF

Introduction

This hearing was scheduled to deal with two Tenant's Application for Dispute Resolution that had been joined together. The tenants had applied for orders for emergency repairs. An advocate appeared on behalf of the tenants and the landlord was represented by the building manager. Both parties were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

At the outset of the hearing, the tenants' advocate stated that the tenant referred to by initials DM wished to withdraw her application as the repairs have since been completed. DM's application is recorded as being withdrawn in its entirety.

The advocate stated that the other tenant, referred to by initials LM, wished that her application proceed even though the repairs have been completed and heat and hot water have been restored to the property. However, the tenant wishes to have some concerns raised and recorded. The tenant also paid a filing fee for her Application for Dispute Resolution that she seeks to have it repaid by the landlord. The landlord was not in agreement to repaying the filing fee to the tenant. According, I make no orders for repairs with this decision but I shall record the tenant's concerns, the landlord's position, and I shall make a decision pertaining to reimbursement of the filing fee to LM only.

The landlord confirmed receipt of the Application for Dispute Resolution and evidence submitted by LM. The landlord stated that the landlord's written response and evidence were served upon LM in person on November 23, 2017. The advocate stated that the tenant did not forward a copy of the landlord's response to her. In the absence of the tenant at the hearing, I accepted the landlord's testimony that the landlord served the tenant with the landlord's response and I have considered it in making this decision.

Issue(s) to be Decided

Should the landlord be ordered to reimburse LM the filing fee paid for this application?

Background and Evidence

The tenant currently pays rent of \$906.00 per month for a one bedroom apartment in the residential property.

On or about August 19, 2017 the boiler system that provides heat and hot water to the rental units in the property failed. The boiler system was replaced and was fully functional by November 16, 2017.

The tenant seeks to convey a message that going without heat and intermittent hot water for two months had a significant impact on the health and wellness of the tenant. The tenant was of the view that there was a lack of communication concerning the status of the repairs to the tenant or acknowledgement by the landlord as to how the outage impacted the tenant. The tenant also reserves the right to seek compensation from the landlord.

The landlord's building manager responded by acknowledging the frustration experienced by tenants and the landlord. The building manager resides in the building herself and the landlord was very aware of the tenant's frustrations and the landlord was also impacted by frustration and stresses. After the boiler failed, the landlord had sought service from three contractors. The first contractor was contacted orally over the phone and there was no documentary evidence of this. There is documentation starting on August 25, 2017 with respect to inspections and quotes from the second contractor; however, when it was determined that replacement parts would not arrive until late December 2017 the landlord proceeded to hire a third contractor in an attempt to have the matter resolved in a more timely manner. The third contractor commenced work on November 1, 2017 and the system was fully replaced just over two weeks later on November 16, 2017.

The landlord also stated that there was a back-up system in place to provide hot water and that the lack of hot water was only experienced in peak times such as in the morning when people were getting ready for their day and again just after normal working hours.

As far as communication with tenants regarding the status of the boiler system, the landlord stated that notices were posted in common areas; however, the notices were defaced and when target dates for repairs were specified but not met, the building was vandalized along with the owner's vehicle and the building manager's vehicle, and threats were made against the landlord including those of physical harm. As a result, the landlord was reluctant to give exact dates as targets for having the repairs completed.

The advocate suggested that notices could have been distributed to individual rental units to avoid the notices in the common areas from getting defaced.

The landlord stated that tenants who made enquiries with the landlord were told as much information the landlord had with respect to the status of the repairs but that the landlord was also uncertain as to the exact date the repairs would be completed.

The landlord acknowledged that the tenant retains the legal right to seek compensation if the tenant so chooses and is prepared to respond to such requests.

As for the filing fee, the landlord pointed out that the tenant's application was filed a day before the repair was completed and that it was unnecessary for the tenant to file. The landlord submitted that it was very obvious that the repairs were underway in the days leading up to the filing of this Application for Dispute Resolution.

The tenant's advocate submitted that the tenant had experienced multiple promises that the repairs would be completed shortly and then that did not happen. At the time of filing it was not apparent that the repairs were nearly completed.

Analysis

Section 72(1) of the Act provides me the authority to order one party to repay the other party the filing fee paid for an Application for Dispute Resolution. The tenant paid a filing fee of \$100.00 and I proceed to consider the tenant's request that the landlord repay her this amount.

Upon review of the landlord's documentary evidence, I accept that the landlord was working diligently to have the boiler system repaired or replaced. I also see evidence that the landlord was conveying to its contractors that the boiler system needed to have the repairs done as soon as possible as the heat and hot water needed to be restored to the tenants. However, I see little evidence with respect to the communication

between the landlord and the tenant(s). In the tenant's evidence are emails whereby the tenant's advocate is seeking information from the landlord with respect to the status of the boiler repairs on November 9, 2017 and with a City inspector on November 10 and November 15, 2017. On November 16, 2017 the City inspector responds to the advocate indicating an inspection had taken place but there were issues concerning water leaks when the inspection was done.

Considering the tenant made this application nearly two months after the boiler system failed, and the lack of documented communication between the landlord and the tenants of the property, I am of the view the tenant seeking formal remedy through the dispute resolution process was reasonable in the circumstances. Therefore, I order the landlord to repay the tenant the filing fee paid for this application.

With this decision I provide the tenant a Monetary Order in the amount of \$100.00 to serve and enforce upon the landlord. I authorize the tenant to deduct \$100.00 from a subsequent month's rent to satisfy the Monetary Order if the landlord does not make payment to the tenant.

Conclusion

The landlord has been ordered to repay the filing fee to the tenant. The tenant is provided a Monetary Order in the amount of \$100.00 to serve and enforce upon the landlord. The tenant is authorized to deduct \$100.00 from a subsequent month's rent to satisfy this Monetary Order.

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: December 05, 2017

Residential Tenancy Branch