



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPT ERP PSF RR OLC

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order of possession of the rental unit pursuant to section 54;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- an order to the landlord to provide services or facilities required by law pursuant to section 65;
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62;

The hearing was conducted by conference call. The landlord did not attend this hearing, although I waited until 11:30 a.m. in order to enable the landlord to connect with this teleconference hearing scheduled for 10:30 a.m. The tenant attended the hearing and was given a full opportunity to provide affirmed testimony and present evidence.

The tenant testified that on December 29, 2017, a copy of the Application for Dispute Resolution and Notice of Hearing was sent to the landlord's business address by registered mail. The tenant provided a registered mail tracking number in support of service.

Based on the above evidence, I am satisfied that the landlord was deemed served with the Application for Dispute Resolution and Notice of Dispute Resolution Hearing pursuant to sections 89 & 90 of the Act. The hearing proceeded in the absence of the landlord.

The tenant advised that since the filing of this application, he was evicted from the rental unit by a bailiff on January 29, 2018. The tenant contends he was removed from the rental unit although he was not named on the eviction notice or order of possession. The tenant clarified that he has found alternative accommodation and his application for an order of possession is now withdrawn.

As the tenancy has ended, the tenant's application for repairs, for the landlord to provide service or facilities and an order for the landlord to comply with the Act is also moot. The only outstanding issue is the tenant's application for a past rent reduction in the amount of \$2250.00 for services or facilities agreed to but not provided.

The tenant was also seeking additional monetary compensation for damage or loss totalling over \$10,000.00 however as the tenant failed to amend his application, this hearing was limited to the original claimed amount of \$2250.00

Issues

Is the tenant entitled to a past rent reduction in the amount of \$2250.00 for services or facilities agreed upon but not provided?

Background and Evidence

The tenant testified that he was already residing in the rental unit prior to the current landlord taking over the property on April 25, 2017. On this date, he entered into a tenancy with the new landlord. The tenancy was for a single room in a residential house which contained 7 separate rooms and up to 10 other tenants. He submitted a shelter information form from the Ministry of Social Development in support of renting or intending to rent the rental unit. The tenant testified the monthly rent was \$375.00 and he had an additional agreement with the landlord by which the landlord returned his monthly rent in exchange for him managing the rental property and bringing in other prospective tenants. He continued to bring in other tenants and manage the rental unit during the duration of the tenancy and his rent payments were returned to him by the landlord as agreed.

The tenant is claiming a rent reduction in the amount of \$2250.00 which is 6 months' rent at \$375.00 per month. The tenant claims that utilities were to be included with his monthly rent; however, no hot water, heat or electricity was provided for this 6 month period. The tenant submitted copies of disconnection notices issued by the utilities provider.

Analysis

Section 7 of the Act provides for an award for compensation for damage or loss as a result of a landlord or tenant not complying with this Act, the regulations or their tenancy agreement. Under this section, the party claiming the damage or loss must do whatever is reasonable to minimize the damage or loss.

I accept the tenant's uncontested testimony and supporting evidence and find the tenant did have a tenancy agreement with the landlord to rent an individual room in the rental unit. I accept the tenant's uncontested testimony and evidence and find the monthly rent was \$375.00 which was to include utilities. I accept the tenant's uncontested testimony and evidence that he suffered a loss as he was not provided with any utilities as agreed upon for a 6 month period. However, I find the tenant did not take reasonable steps to minimize his loss. The tenant could have found alternative accommodation and vacated the rental unit and/or could have filed an application ordering the landlord to provide the agreed upon utilities. The tenant did not file this application until December 29, 2017, one month prior to his tenancy ending. Rather, the tenant continued to reside in the rental unit and in addition continued to recruit other tenants to reside in a unit without any provided utilities. Further, as the tenant still somehow continued to reside in the rental unit for the duration of the period claimed, I find the tenant did not suffer a loss equivalent to a full month's rent as claimed. I find the tenant is entitled to an amount of \$375.00 which is equivalent to one month's rent for the loss of services or facilities over this 6 month period.

The tenant is entitled to a Monetary Order in the amount of \$375.00.

Conclusion

Pursuant to section 67 of the Act, I grant the tenant a Monetary Order in the amount of \$375.00. Should the landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: February 26, 2018

Residential Tenancy Branch