



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Bayside Property Services Ltd.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDCT, OLC, PSF

Introduction

This is an Application for Dispute Resolution (the “Application”) brought by the Tenant requesting an order that the Landlord comply with the Act, regulations and/or tenancy agreement. The Tenant requests a monetary order for compensation and requests an order that the Landlord provide services or facilities as required by the tenancy agreement or the Act.

The Landlord’s agent and the Tenant appeared for the scheduled hearing. Neither party raised a concern about the service of the Notice of Hearing or evidence that was submitted by the parties.

The hearing process was explained and parties were given an opportunity to ask any questions about the process. The parties were given a full opportunity to present affirmed evidence, make submissions, call witnesses and to cross-examine the other party on the relevant evidence provided in this hearing.

Although all evidence was taken into consideration at the hearing, only that which was relevant to the issues is considered and discussed in this decision.

Issues to be Decided

Is the Tenant entitled to an order requiring the Landlord to comply with the Act, regulations and/or tenancy agreement, pursuant to section 62 of the Residential Tenancy Act (“Act”)?

Is the Tenant entitled to an order requiring the Landlord to provide services or facilities pursuant to section 62 of the Act?

Is the Tenant entitled to a monetary order for compensation pursuant to section 67 of the Act?

Background and Evidence

This tenancy began November 24, 1995. The original rent was \$765.00 per month, but increased to \$1,196.00 over time; the Tenant moved into the current suite in April of 2017. A security deposit of \$382.50 was paid. The property manager is new, having managed this building since January of 2018.

The Tenant states that her refrigerator was not operable from May 12 through May 17, 2018. She lost food as a result of the appliance not working, in the amount of at least \$150.00; an itemized list of the food items was provided along with an estimated cost for each. A demand letter for payment dated May 20, 2018 was provided by the Tenant to the Landlord, but no payment was made.

The Tenant also states that the heating was shut off in the building on June 5, 2018. She states that over the last 23 years, the heat pump is left on so that the residents can adjust their heat, and that several residents were upset when the caretaker shut off the heat and told them to use sweaters and blankets. The Tenant provided a copy of the tenancy agreement and states that heat is included with her monthly rent. The heat was switched back on August 30, 2018.

Finally, the Tenant provided a statement in evidence that the intercom was not working, as the volume level is too low to hear when visitors dial in. She states that on August 30th, the intercom began working properly again.

The Landlord claims that it received notice of the broken refrigerator on Saturday, May 12th and a serviceman was dispatched on Monday May 14th. It was determined that the appliance needed to be replaced. The building manager explained that there was a refrigerator in the basement workshop the Tenant could use to store perishable items until the new appliance could be delivered. The Tenant denies that she was given an alternative to store her food.

The Landlord states that this Tenant was the only person who made a single request for heat to be turned on during the summer months, which the Tenant denies. The Landlord provided a statement that the average temperature was 20.3 degrees in June, 25.6 degrees in July and 25.5 degrees in August; the boiler sensor will normally shut off

the heat pump when the outside temperature reaches 22 degrees. The Landlord admits that the heat pump was manually switched off for most of this summer, which renders this sensor inoperable.

Analysis

I informed the parties that section 63 of the Act allows an Arbitrator to assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order.

As a result, the parties engaged into a discussion between them, turned their minds to compromise and were able to reach a settlement agreement to mutually end the tenancy.

Settlement Agreement

Both parties voluntarily agreed to settle the Tenant's Application in full satisfaction under the following terms and conditions:

1. The Landlord shall issue a cheque payable to the Tenant forthwith in the sum of \$150.00 to reimburse her for food that perished when her refrigerator was inoperable;
2. The Landlord will issue a directive to the caretaker that only a qualified boiler technician or plumber will make any adjustments to the boiler system, the heat pump or thermostats;
3. The Landlord agrees to leave the heat pump switched on throughout the building on a continuous basis, subject to any requirement to turn it off for the purpose of making repairs to the system;
4. The Landlord agrees to place a copy of this decision with file documents that would be passed along to any future property managers that may be hired to manage the building;
5. The Tenant's Application is settled by way of this Agreement.

The parties confirmed during the hearing and at the end of the hearing that they had entered into this Agreement voluntarily, understood the full nature of this Agreement and its meaning, and agreed to the above terms and conditions. The parties understood that this Agreement is final and binding.

To give effect to the settlement reached between the parties, I issue the attached monetary order for the \$150.00 payment to the Tenant.

This order may be served on the Landlord and may then be filed in the Small Claims Division of the Provincial Court and enforced as an order of that court if the Landlord fails to make payment. Copies of this order are attached to the Tenant's copy of this Decision.

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: September 25, 2018

Residential Tenancy Branch