



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HARKERSON WHOLESALE LUMBER
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RR, FF

Introduction

On December 10, 2018, the Tenant applied for dispute resolution under the *Residential Tenancy Act* (“the Act”), seeking to deduct the cost of services or facilities from the rent and to recover the cost of the filing fee.

The Tenant and the Landlord’s agent (“the Landlord”) were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

- Did the Tenant suffer a loss of value of service or facility?
- Is the Tenant entitled to recover the cost of the filing fee?

Background and Evidence

The parties testified that the tenancy began on December 15, 2016, as one year fixed term to continue thereafter on a month to month basis. Rent in the amount of \$1,168.00 is due by the first day of each month. A security deposit of \$550.00 was paid by the Tenant to the Landlord. The service of heat is included in the rent. The Tenant provided a copy of the tenancy agreement.

The Tenant testified that in September 2018 her unit was not getting any heat. She testified that she contacted the Landlord on September 10, 2018 and reported the issue. She testified that the Landlord provided her with a space heater two days later.

The Tenant testified that the space heater was not sufficient to heat the unit and it also used the hydro utility that she pays for. She testified that she raised these concerns to the Landlord.

The Tenant testified that she contacted the corporate Landlord using telephone and mail but did not receive a response to her concerns. The Tenant testified that she requested a 10% reduction in rent due to the loss or restriction of heat.

The Tenant is seeking a rent reduction of \$114.00 for a loss of heat for September 2018.

In reply, the Landlord testified that the boiler that provides heat to the rental units is normally shut down every June and is started up again in the fall. The Landlord testified that after the Tenant contacted him, he purchased an electric oil heater.

The Landlord testified that he contacted a plumber to attend the property to restart the boiler and that the boiler was turned back on as of September 26, 2018.

The Landlord testified that he was not aware that the Tenant had contacted the owner and had requested compensation until he received the Notice of Dispute Resolution Proceeding documents.

Analysis

Residential Tenancy Guideline #22 Termination or Restriction of a Service or Facility provides that a Landlord must not:

- *terminate or restrict a service or facility if the service or facility is essential to the tenant's use of the rental unit as living accommodation, or*
- *terminate or restrict a service or facility if providing the service or facility is a material term of the tenancy agreement.*

Where it is found there has been a substantial reduction of a service or facility, without an equivalent reduction in rent, an arbitrator may make an order that past or future rent be reduced to compensate the tenant.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the rent includes the service of heat and is a material term of the tenancy agreement. I find that the Tenant suffered a restriction of heat to the rental unit for most of the month of September 2018. I find that this is a substantial reduction of a service. I find that the restriction of heat is due to Landlords decision to wait until the fall before turning on the boiler. While the

Tenant was provided with an electric heater; I find that the rent does not include electricity costs. I find that the Tenant was effectively put in a position to pay for her own heating costs.

I find that the Tenant's request for compensation for the loss of the service of heat, and the inconvenience of the situation is reasonable. I grant the Tenant compensation in the amount of \$114.00.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful in her application, I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

In total, I award the Tenant a monetary order in the amount of \$214.00. I authorize the Tenant to withhold the amount of \$214.00 from one (1) future rent payment.

Conclusion

The Tenant's application is successful.

The Tenant suffered a restriction of the service of heat to the rental unit for most of the month of September 2018.

I grant the Tenant compensation in the amount of \$214.00. I order that the Tenant can deduct the amount of \$214.00 from one (1) future rent payment.

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: January 23, 2019

Residential Tenancy Branch