



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Prompton Real Estate Services Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            FFT, MNDCT, RR

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act") for a monetary claim of \$1,266.00 for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, for regular repairs, and to recover the cost of their filing fee.

The Tenant, [Z.L.L.], and an agent for the Landlord (the "Agent") appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Landlord were given the opportunity to provide their evidence orally and respond to the testimony of the other Party. I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure; however, only the evidence relevant to the issues and findings in this matter are described in this decision. At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing.

Neither Party raised any concerns regarding the service of the Application for Dispute Resolution or the documentary evidence. Both Parties said they had received the Application and/or the documentary evidence from the other Party and had reviewed it prior to the hearing.

### Preliminary and Procedural Matters

The Parties provided their email addresses at the outset of the hearing and confirmed their understanding that the decision would be emailed to both Parties.

In the hearing, the Tenant said that the repairs had been made, so his Application for regular repairs was moot. As such, this claim is dismissed without leave to reapply.

### Issue(s) to be Decided

- Are the Tenants entitled to a monetary order, and if so, in what amount?

- Are the Tenants entitled to recovery of the \$100.00 Application filing fee?

### Background and Evidence

The Parties agreed that the fixed term tenancy began on December 1, 2018, to run to November 30, 2019, and then be month-to-month. The Parties agreed that the Tenants pay a monthly rent of \$2,725.00, due on the first day of each month, and that the Tenants paid a security deposit of \$1,362.50 and no pet damage deposit.

In the hearing, the Tenant said that in the month of February there was no heat or hot water in the rental unit. He said:

From February 7 or 8, until February 21, we had been living without heat and hot water at all. We couldn't wash or shower or do the dishes. We want to be reimbursed for the days when we were out of heat and hot water for the apartment.

There was a snow storm at that time. We were living in a unit without heat or hot water for about a week. In the middle of it we decided it was too cold to live there, so we decided to live at our parents' houses separately. We were out of the unit for 2/3 of the time. It's the developer, not the Landlord's problem that the hot water is not working. But it makes more sense for the Landlord to talk to the developer than for us.

The Agent said:

On a personal level, I feel terrible. We're an exclusive management company for the developer. A lot of units started to call me about the hot water in February. As a temporary solution, we suggested that people could buy a couple of space heaters from [a wholesale outlet] and that we could reimburse them. Or they could go across the street to the spa where they could have a shower. We also recommended they apply for a hearing, as I can't authorize giving out thousands of dollars without an order.

The Agent said she emailed the building manager about the situation and discovered that one of the building's two boilers was not working and that a service call needed to be arranged. She said:

I tried everything I could do to contact the Strata. They had to go through one specific company because of the warranty. They had to order a part and the wrong part came. I was getting upset with the Strata, because we have all these tenants without heat or hot water. It was unfortunate, as we are held hostage by the Strata having to go through the one plumbing company. I did have some tenants saying that they would have different times to shower – such as the middle of the day. The peak hours were in the morning. I do have tenants who did have heat or hot water. It was hit or miss. It did end up getting fixed.

The Tenant responded to the Agent by saying:

I agree, except that some tenants had luke-warm water during that time. But our unit was constantly at 16 to 17 degrees inside the unit. It wasn't possible to live there. We came back occasionally to try, but we looked at the temp and it was never over 20 degrees. It was the 21<sup>st</sup> [of February] that we moved back in.

In clause four of the tenancy agreement, the Parties agreed that heat and hot water would be provided by the Landlord as part of the rental payment.

### Analysis

Section 32 of the Act says that "a landlord must provide and maintain residential property in a state of decoration and repair that (a) complies with the health, safety and housing standards required by law, and (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant."

Section 33 of the Act sets out what "emergency repairs" means. It says that emergency repairs are "urgent, necessary for the health or safety of anyone or for the preservation or use of residential property." Section 33(1)(c) also states that emergency repairs are made for the purpose of repairing:

...

- (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
- (iii) the primary heating system,

Section 65(1) of the Act states:

...if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders:

...

- (f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;

The Tenants' undisputed evidence is that the heat and hot water were not available to them from February 8 to February 21, 2019 or for 13 days of that month.

Section 65(1)(f) of the Act allows me to reduce the past or future rent by an amount equivalent to the reduction in value of the tenancy agreement. I accept the Tenants' evidence that the residential property required repairs and maintenance and that the Landlord failed to provide the services in a timely manner. I find that this failure of the Landlord resulted in a loss of value of the tenancy and that the Tenants are entitled to a monetary award.

The Tenants applied for \$1,266.00, which amounts to the monthly rent divided by the number of days in February times the number of days the heat and hot water did not work in the rental unit. I find this to be reasonable in the circumstances.

In accordance with sections 65(1)(f) and 67 of the Act, I find that there was a loss in the value of the tenancy due to the Landlord's failure to provide the Tenants with the heat and hot water services agreed upon in the tenancy agreement and pursuant to section 32 of the Act. Accordingly, I award the Tenants \$1,266.00. As the Tenants are successful in his Application, I also find that they are entitled to recovery of the \$100.00 filing fee from the Landlord. I authorize the Tenants to make a one-time deduction of \$1,366.00 from the next monthly rent payment.

### Conclusion

The Tenants were without heat or hot water for 13 days in February 2019, through no fault of their own. The Landlord failed to provide these services, which were required as part of the tenancy agreement and section 32 of the Act, so I order the monthly rent for this tenancy is reduced by **\$1,366.00** on one future rent payment, which includes the \$100.00 Application filing fee.

This decision is final and binding on the Parties, unless otherwise provided under the Act, and 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: June 12, 2019

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Residential Tenancy Branch