



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding AWM ALLIANCE REAL ESTATE GROUP
LTD and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNDC, PSF, RP, FF

Introduction

This matter dealt with an application by the Tenant for compensation from the Landlord for loss or damage under the Act, regulations or tenancy agreement, for repairs to the unit, site or property, to provide service and facilities agreed to in the tenancy agreement and to recover the filing fee for this proceeding.

The Tenant said she served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on August 31, 2019. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded in the Landlord’s absences.

Issues(s) to be Decided

1. Is there a loss or damage to the Tenant and if so how much?
2. Is the Tenant entitled to compensation for the loss or damage and if so how much?
3. Are there repairs that are needed to be done to the rental unit?
4. Is the Tenant entitled to compensation for repairs that are needed to be completed or completed and if so how much?
5. Are services and facilities being provided as agreed upon?

Background and Evidence

This tenancy started on September 1, 2017 as a fixed term tenancy with an expiry date of August 31, 2018 and then renewed for another fixed term tenancy with an expiry date of August 31, 2019. The tenancy has been renewed on a month to month basis. Rent is \$1,611.31 per month payable in advance of the 1st day of each month. The Tenant paid a security deposit of \$751.72 on August 17, 2017.

The Tenant said on page one of her tenancy agreement it indicates that heat is included in the tenancy. The Tenant continued to say the central heating system and air conditioning has not work in her unit since September 2018. The Tenant said the air condition not working is not a big issue as where she lives it does not get too hot so she just opens the windows. The Tenant continued that the heating system not working is a big issue. The Tenant said she was without heat from the main heating system in the cold time of year from September 2018 to April 2019 and then again from September 2019 to today. The Tenant said she has written the Landlord many times requesting the heating system to be repaired and the Landlord responded that work would be done, but the Tenant said nothing has happened. The Tenant provided the written requests for repairs to the Landlord in her evidence package. The same repair requests were included in the evidence the Landlord submitted. The Tenant said there is still no heat from the two heating units in her rental unit. The Tenant said the previous caretaker lent her an oil type electric heater but it did not work, so she and her family just dressed warmly and made do. The Tenant continued to say the Landlord did not respond to her requests for repairs to the heating system and the Landlord did not compensate her for the loss of heat to her rental unit.

The Tenant said she has tried to get the Landlord to work with her and fix the heating problems in her unit, but to date the Landlord has not made any repairs. The Tenant said she is now applying for compensation as follows:

1. Compensation based on BC Hydro calculator for her unit \$344.00 for 6 months	\$2,244.00
2. The Tenants time to resolve this issue 10 hours at \$20.00 per hour.	\$ 240.00
3. Compensation for distress and discomfort	<u>\$ 916.00</u>
Total	<u>\$3,400.00</u>

The Tenant said in closing that she has tried to work with the Landlord on this issue and she has been patience in waiting for the repairs, but the Tenant does not want to have another winter with out heat.

Analysis

The Residential Tenancy Act says:

Section 27 (1)A landlord must not terminate or restrict a service or facility if

(a)the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b)providing the service or facility is a material term of the tenancy agreement.

(2)A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a)gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b)reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

Section 32 of the Act says a Landlord must provide and maintain residential property in a state of decoration and repair that makes it **suitable for occupation by a tenant**.

Therefore a Landlord is obligated to repair items include in the tenancy agreement.

I accept the Tenant's undisputed testimony that her rental unit has been without heat and air-conditioning since September 2018. The Landlord has been notified in writing that the heating units are not working and the Landlord has not repaired the heating system. Further the Landlord has not compensated the Tenant for any costs she may have incurred due to the lack of heat in her rental unit. Consequently, I find for the Tenant and I order the Landlord to have a professional heating company repair the heating system in the Tenant's rental unit immediately.

In addition I accept the Tenant's request for compensation for loss of heat, time spent to initiate the repairs and stress and discomfort because of the lack of heat. I award the Tenant \$350.00 per month from September 2018 to April 2019 in the amount of 8 X

\$350.00 = \$2,800.00 and for September and October 2019 in the amount of \$350.00 X 2 = \$700.00. Further I order the Tenant to reduce the rent by \$350.00 for each month starting in November 2019 until the heating system is repaired to her satisfaction.

As the Tenant has successful in this matter I order the Tenant to recover the \$100.00 filing fee from the Landlord. A monetary Order has been issued to the Tenant for the following amount:

1. Compensation for lack of heat	\$3,500.00
2. Recover filing fee	<u>\$ 100.00</u>
Total owing	<u>\$3,600.00</u>

Conclusion

A Monetary Order in the amount of \$3, 600.00 has been issued to the Tenant. A copy of the Order must be served on the Landlord: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

Further the Tenant is ordered to reduce the monthly rent by \$350.00 per month until the heating system is repaired. The Tenant's reduced rent payment will be \$1,611.31 less \$350.00 = \$1,261.31.

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: October 22, 2019

Residential Tenancy Branch