



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

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

- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33.

The tenant attended the hearing via conference call and provided undisputed affirmed testimony. The landlord did not attend or submit any documentary evidence. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence in person on January 13, 2020. The tenant provided affirmed testimony that her boyfriend was present during service.

I accept the undisputed affirmed evidence of the tenant and find that although the landlord did not attend that the landlord has been sufficiently served and is deemed served as per section 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to an order for emergency repairs?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant seeks an order for emergency repairs for health or safety reasons and has contacted the landlord to make the repairs, but they have not been completed. The tenant requests that the landlord turn on the utilities/hydro to provide heat, hot water and electricity as this is included in the tenancy agreement. The tenant provided written details which states:

Landlord turned off the hydro and I have no heat, hot water or electricity since December 18, 2019, I have had to stay at a shelter and have a 4-year old daughter who cannot stay with me there.

The applicant has also submitted in support of her claim 2 copies of a 2 page Statutory Declaration dated December 23, 2018 and a completed Ministry Shelter Information form dated August 2, 2019. The tenant clarified that the second copy of the declaration was an apparent error and does not serve any particular purpose as it is a duplicate.

A review of the Statutory Declaration states in part,

On Wednesday, December 18, when I got home, I had no lights or heat. I phoned BC Hydro and they said there were no problems at their end, so I phoned the landlord.

Mr. P. said that he shut it off, and I owed him \$2400 for hydro, and would have to pay him to have it turned back on, because he said he owed that much to BC Hydro. But my hydro is included in my rent, and I have paid my rent every month.

A review of the completed Shelter Information form states in part,

Section A- Renting a Self-Contained Unit or Room

Total Rent \$800

Total # of people at given address Adults 1.

Section C- Room Only (common areas shared with landlord, meals are provided)

Amount per month \$400

Does client share a kitchen or bathroom with owner? Yes.

Are utilities included in rent? Yes.

The tenant stated that the entire form was completed by the landlord, but that the answer to the question, Does the client share a kitchen or bathroom with the owner in section c is incorrect. The tenant stated that she has a basement self contained rental unit and that the landlord does not live-in or share the space.

Analysis

Section 33 of the Act describes “emergency repairs” as those repairs that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purposes of:

- repairing major leaks in pipes or the roof,
- damage or blocked water or sewer pipes or plumbing fixtures
- the primary heating system
- damaged or defective locks that give access to the rental unit
- the electrical systems
- in prescribed circumstances, a rental unit or residential property

In this case, I accept the undisputed affirmed evidence of the tenant and find that the landlord has wilfully turned off the hydro (which provides light, heat and hot water). I also accept the tenant’s undisputed affirmed evidence that the utilities are included in the tenancy as shown on the shelter information form and that the landlord has failed to turn the service back on despite the request from the tenant. The tenant’s application is granted. The landlord is ordered to immediately turn on all previous services (hydro) provided to the tenant.

In the event that the landlord fails to immediately provide hydro service to the tenant, the tenant may withhold from the monthly rent beginning February 2020, \$200.00 (for February 2020, making rent \$600.00). If at the end of February 2020, the landlord has still not provided hydro service, the tenant may withhold from the monthly rent for March 2020, \$400.00 (for March 2020, making rent \$400.00). If at the end of March 2020, the landlord has still not provided hydro service, the tenant may withhold from the monthly rent for April 2020, \$600.00 (for April 2020, making rent \$200.00). If at the end of April 2020, the landlord has still not provided hydro service, the tenant may withhold from the monthly rent for May 2020, \$800.00 (for May 2020, no rent payment necessary). If the landlord has still not provided hydro service by May 31, 2020, the tenant need not pay

any rent (for June 2020). The tenant need not pay any rent until the landlord complies with the order. If there is a dispute as to the status of whether or not or when the landlord has provided hydro service to the tenant, the landlord is directed to file an application for dispute seeking a finding of fact on this matter.

Conclusion

The tenant's application is granted, the landlord is ordered to immediately turn on all previous services (hydro) provided to the tenant.

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 24, 2020

Residential Tenancy Branch