



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, RP, FFT

Introduction

The Tenant seeks the following relief under the *Residential Tenancy Act* (the “Act”):

- An order pursuant to s. 32 for repairs to the rental unit;
- An order pursuant to s. 65 for a rent reduction; and
- Return of her filing fee pursuant to s. 72.

N.L. appeared as the Tenant. She was assisted by J.X., who both translated and provided submissions on behalf of the Tenant. J.Z. appeared as agent for the Landlord.

J.X. certified that he had knowledge of Mandarin and was able to translate English to Mandarin, and vice versa, on behalf of the Tenant.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other’s application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other’s application materials.

Issues to be Decided

- 1) Should the Landlord be ordered to undertake repairs to the rental unit?
- 2) Is the Tenant entitled to a rent reduction?

3) Is the Tenant entitled to the return of her filing fee?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this decision.

The parties confirmed the following details with respect to the tenancy:

- The Tenant took occupancy of the rental unit on September 1, 2020.
- Currently, rent of \$3,300.00 is due on the first day of each month.
- The Tenant paid a security deposit of \$1,650.00 to the Landlord.

A copy of the tenancy agreement was put into evidence by the Tenant.

The Tenant advised that heating to the rental unit is insufficient. The Tenant alleges that the rental unit heating for the months of December 2020 and January 2021 were insufficient such that she moved in with a friend for those two months. The Tenant could not recall the specific temperature within the rental unit on this occasion. The Tenant advised that she called the Landlord's agent to notify him of the heating issue in the fall of 2020 but that the Landlord's agent told her that the system was functioning properly.

The Landlord's agent denies that there were issues with the heating system in December 2020 or January 2021. He says that thermostat would register 71- or 72-degrees Fahrenheit (approximately 22-degrees Celsius). I was further directed to an invoice from a technician dated November 17, 2020 by the Landlord's agent. He advised that the heating system was inspected on that occasion and that no issues were found.

The Landlord's agent testified that the Tenant's room, which is on another floor, may have been colder and that he provided a space heater to the Tenant in the winter of 2020 to address her concerns. The Tenant confirms receiving the space heater.

The Tenant further testified that the rental unit's heating was an issue, once more, in the winter of 2021/2022. She says that there was insufficient heat from December 2021 to February 2022. The Tenant's evidence includes a text message dated November 27, 2022, which shows the indoor temperature at 68-degrees Fahrenheit (or 20-degrees Celsius). The Tenant testified that the temperature dropped to 15- or 16-degrees

Celsius within the rental unit, though provided no pictures of the thermostat at that temperature. The Tenant testified to getting a hotel in December 2021 as the rental unit was too cold, though the Tenant provides no specific dates.

The Landlord's agent acknowledged that the heating system was not functioning properly in late 2021 and early 2022 but emphasized that the Landlord obtained three separate technicians, with the last one fixing the heating system on January 25, 2022. The Landlord's agent emphasized that the heating system is working. The Landlord's agent says he brought several space heaters to the rental unit to assist in heating the space while the heating unit was repaired in December 2021 and January 2022. The Tenant acknowledges space heaters were brought to the rental unit, though disputed the number the Landlord's agent testified to bringing.

The Landlord's evidence includes invoices dated December 16, 2021 and December 29, 2021 from heating technicians. The December 16, 2021 invoices indicates that the heat blowing from the system at the outset starts at 32 degrees Celsius but drops to 20 degrees Celsius after running for 15 minutes. The December 29, 2021 invoice indicates that the furnace does not reach its target temperature and that the indoor thermostat read an indoor temperature of 66- or 67-degrees Fahrenheit (approximately 19-degrees Celsius).

The Tenant further raised issue with respect to the rental unit's air conditioning. The Tenant advised that she was advised of the rental unit's air conditioning when she viewed the place prior to the start of the tenancy. The Tenant says that the air conditioning unit did not work for July and August 2022. I was directed to a text message in the Tenant's evidence dated Jul 25, 2022 in which she advises the Landlord's agent that the air conditioner was not working. The Tenant says that the air conditioner was repaired sometime in August 2021.

The Landlord's agent acknowledged the air conditioner was not functioning, though clarified that the span of time in which there was an issue was brief. He acknowledges learning of the air conditioner from the Tenant a day or two before the July 25, 2022 text message and says that he obtained a technician, who attended on August 9, 2021. The Landlord's evidence includes an invoice from a technician dated August 9, 2021. The Landlord's agent testified that the air conditioner functioned after the technician visited.

The Tenant submitted that she is seeking a rent reduction equivalent to a full month's rent for the period in which the heating system was allegedly not working (December

2020, January 2021, December 2021, January 2022, and February 2022) and for 1/3 a month's rent for July and August 2021 when the air conditioner was allegedly not working.

The Landlord's agent emphasized that the repairs were undertaken in a timely fashion and that the Tenant has no proof that the heating system is not currently functioning properly.

Analysis

The Tenant seeks orders for repairs and for past rent reduction.

Section 32 of the *Act* imposes an obligation on a landlord to maintain a residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and, having regard to the age, character, and location of the rental unit, make it suitable for occupation for a tenant.

Pursuant to s. 65 of the *Act*, where a landlord is found to have not complied with the *Act*, Regulations, or the tenancy agreement, the director may grant an order that past or future rent be reduced by an amount equivalent to the reduction in the value of the tenancy agreement. Generally, rent reduction claims are advanced when services have been terminated or suspended for repairs.

Looking first at the air conditioner, I find that the Landlord has fulfilled its obligation under s. 32 of the *Act*. The parties' evidence is consistent that the Tenant notified the Landlord of the air conditioner in late July 2021. The Landlord's agent says he was notified on or about July 23, 2021. The Tenant says the air conditioner was repaired in August 2021, though could not recall the specific date. The Landlord's evidence is clear that a technician attended to repair the air conditioner on August 9, 2022. I find that the Landlord was timely in its repair of the air conditioner and that it was not functioning for approximately 2 weeks. The Tenant has failed to establish a breach of the Landlord's obligation to the repair of the air conditioner and, as such, I find that the Tenant is not entitled to a rent reduction for the brief interruption in its operation.

Looking at the heating, I found the Tenant's evidence to be vague with respect to the extent of the issue. During the December 2020 and January 2021 period, the Tenant testified that she could not recall how warm it was within the rental unit, though she had to live with a friend due to how cold it was. The Landlord's agent provided evidence that

the heating system was assessed on November 17, 2022 and was found to be working at that time. He testified to the rental unit reaching a temperature of 71- or 72-degrees Fahrenheit, which is approximately 22-degrees Celsius. I accept the Landlord's evidence that the system was functioning properly over the winter of 2020/2021. I find that the Tenant has failed to establish that the heating system was not functioning properly in December 2020 or January 2021.

There is, however, no dispute that the heating system was not functioning properly in December 2021 and January 2022. The Landlord's agent testified to retaining three technicians to attending the rental unit with the heating system repaired on January 25, 2022.

The Tenant, again, provided little evidence to the extent of the issue. I was advised that the rental unit was 15- or 16-degrees Celsius but was provided no photographs of the thermostat showing that temperature was present. The Tenant's evidence includes a text message that the temperature on November 27, 2021 was 68-degrees Fahrenheit (or 20-degrees Celsius), which is nearly standard room temperature of 21-degrees Celsius. The invoices provided by the Landlord indicate that the internal temperature of the rental unit on December 29, 2021 was 66- or 67-degrees Fahrenheit (approximately 19-degrees Celsius).

I accept that the heating system was not operating as it ought to have been. However, this is not a situation where the heating system was not functional at all. To be certain, 19-degrees Celsius is cool but given that standard room temperature is 21-degrees Celsius, and that the temperature reading was from December 29, 2021, it indicates a heating system that was still providing some heat. Further, it is undisputed that the Landlord provided various space heaters to the Tenant in December 2021 and January 2022, though the Tenant disputes the amount of space heaters provided.

I find that, again, the Landlord acted diligently by retaining three separate technicians to address the heating within the rental unit in December 2021 and January 2022 and also provided supplemental heat during the relevant period. I accept that the heating system was repaired on January 25, 2022. I find that the Landlord complied with its obligation to repair the rental unit under s. 32 of the *Act*. I find that the Tenant has failed to demonstrate a breach of the *Act*, Regulations, or tenancy agreement such that she is not entitled to her rent reduction claim.

Conclusion

The Tenant has failed to demonstrate that the Landlord breached s. 32 of the *Act* such that repairs are necessary or that she is entitled to a rent reduction. Her claims under ss. 32 and 65 of the *Act* are dismissed without leave to reapply.

As the Tenant was unsuccessful in her application, I find that she is not entitled to the return of her filing fee. Her claim under s. 72 of the *Act* is dismissed without leave to reapply.

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: August 22, 2022

Residential Tenancy Branch