



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      PSF, RR, CNC, FFT

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant May 29, 2022 (the “Application”). The Tenant applied as follows:

- For an order that the Landlord provide services or facilities required by the tenancy agreement or law
- To reduce rent for repairs, services or facilities agreed upon but not provided
- To dispute a One Month Notice to End Tenancy for Cause dated May 25, 2022 (the “Notice”)
- To recover the filing fee

The Tenant and Landlord appeared at the hearing. I explained the hearing process to the parties. I told the parties they are not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties provided affirmed testimony.

The parties agreed the Tenant has moved out of the rental unit. The Tenant testified that they moved out prior to September 01, 2022. Given this, the Tenant withdrew the request for an order that the Landlord provide services or facilities required by the tenancy agreement or law and the dispute of the Notice. The Landlord agreed to the withdrawal.

The Tenant proceeded with their request to reduce rent and to recover the filing fee.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence.

The Landlord confirmed receipt of the hearing package from the RTB April 13, 2022, and confirmed they were prepared to address the Tenant's request to reduce rent. The Tenant advised that they are only relying on an email from April 27, 2022, and letter from April 20, 2022, in their evidence submitted. The Landlord confirmed receipt of these two documents.

The Tenant testified that they did not receive the Landlord's evidence. The Landlord said they are not relying on their evidence in relation to the Tenant's request to reduce rent. Given this, I did not address this issue further. However, during the hearing the Tenant referred to a warning letter from the Landlord dated April 27, 2022, and therefore I have considered this, which was submitted by the Landlord, because it is clear the Tenant received it and could address it at the hearing.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered the testimony of the parties and documentary evidence relied on by the parties. I will only refer to the evidence I find relevant in this decision.

#### Issues to be Decided

1. Is the Tenant entitled to a past rent reduction?
2. Is the Tenant entitled to recover the filing fee?

#### Background and Evidence

The parties agreed there were written tenancy agreements in this matter. The parties agreed the tenancy started December 01, 2018. The parties agreed rent was \$850.00 per month due on the first day of each month.

The Tenant sought to reduce past rent paid by \$850.00 due to a lack of heat in the rental unit.

The Tenant testified as follows. The rental unit is in a house that was not wired properly. The City inspected the house and confirmed there are issues with the wiring. The control for the heat was in the main part of the house, not in the rental unit. Heat in the rental unit was not previously a problem because the upstairs tenants were considerate and turned it on and off as necessary. The upstairs tenants were evicted around May of 2022 or before this. When the upstairs tenants were evicted, the heat

was turned off. The Tenant wrote a letter to the Landlord letting them know there was no heat in the rental unit, they could not turn the heat on and they were freezing. The Landlord only responded telling the Tenant they could move if heat was an issue. There was no heat in the rental unit for around a month or six weeks, from mid April to mid May.

The Landlord testified as follows in response. The heat controls for the rental unit are in a different part of the house. The Landlord did receive the Tenant's letter about the heat issue. During the period the Tenant refers to, the main house was open to the Tenant as the door to it was open. The heat in the house does not shut off. When the Landlord received the Tenant's letter, they went to the house and checked it and the heat was on. Although the rental unit is not a legal basement suite, the City inspected it and said there is nothing wrong with the rental unit.

In reply, the Tenant agreed the main house was open such that the Tenant could enter it; however, pointed to a letter from the Landlord in evidence telling the Tenant they are not authorized to go into the main house.

As stated, the Tenant relied on an April 20, 2022 letter and April 27, 2022 email in evidence. The Landlord did not rely on their documentary evidence. As stated, I have considered the Landlord's warning letter dated April 27, 2022.

### Analysis

Section 65 of the *Act* states:

65 (1) Without limiting the general authority in section 62 (3) [director's authority respecting dispute resolution proceedings], 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...

Section 32 of the *Act* states:

32 (1) 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.

Pursuant to section 32(1)(b) of the *Act*, the Landlord must ensure there is heat in the rental unit during colder months such as April and May.

I accept there was no heat or not sufficient heat in the rental unit as of April 20, 2022, because the Tenant wrote to the Landlord stating this.

The Landlord replied to the Tenant in the April 27, 2022 warning letter. The letter states that, if there is an issue with the heat, the Tenant must put this in writing to the Landlord and they will address it. The letter also states that the Tenant should find another rental if they find the temperature in the rental unit uncomfortable.

I am not satisfied the Landlord took steps to address the heat issue or attended the rental unit to confirm the heat was on and sufficient after the Tenant's April 20, 2022 letter. If the Landlord had attended the rental unit when they received the Tenant's letter and confirmed the heat was on and sufficient, I would expect this to be noted in the Landlord's April 27, 2022 letter; however, it is not. Instead, the Landlord told the Tenant to put issues with the heating in writing, which the Tenant already had, and told the Tenant to find another rental if they were not happy with the heat situation. I find the Landlord's response in the April 27, 2022 letter inconsistent with the position that the Landlord attended the rental unit and ensured the heat was on and sufficient. Further, the Landlord suggested in the hearing that the door to the main house was open during the relevant period. I understood the Landlord to be saying that the Tenant could have simply addressed the heat issue by entering the main house. However, the Landlord made it very clear in their April 27, 2022 letter that the Tenant was not to enter the main house. I again find the Landlord's position at the hearing to be contrary to their April 27, 2022 letter.

In the circumstances, I accept that the heat in the rental unit was not sufficient from April 20, 2022 to mid May as stated by the Tenant. I accept the Landlord breached section 32(1)(b) of the *Act* in this regard and that the value of the tenancy was reduced because of this breach.

The Tenant seeks \$850.00 as a rent reduction which is one month's rent. I am not satisfied based on the evidence provided that the Tenant is entitled to a full month's rent back due to the heat issue. The Tenant did not state that they could not use the rental unit or live in the rental unit from April 20, 2022 to mid May due to the heat issue and therefore return of the full month's rent is not reasonable. Further, the Tenant has not submitted that the rental unit was unlivable, only that it was uncomfortable. In the absence of further evidence, I award the Tenant \$212.50 being a quarter of one month's rent. I find this amount accounts for the rental unit being uncomfortable for one month due to the heat issue.

Given the Tenant was successful in the Application, I award the Tenant reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

In total, the Landlord owes the Tenant \$312.50 and is issued a Monetary Order in this amount pursuant to section 67 of the *Act*.

### Conclusion

The Tenant is awarded \$312.50 and is issued a Monetary Order in this amount. This Order must be served on the Landlord. If the Landlord fails to comply with this Order, it may be filed in the Small Claims division of the Provincial Court and enforced as an order of that court.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: October 07, 2022

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Residential Tenancy Branch