



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: *MNDL-S, MNDC, FF*

Introduction.

This hearing dealt with applications by the landlord and the tenant, pursuant to the *Residential Tenancy Act*. The landlord applied for a monetary order for the cost of repairs and cleaning, to retain the security deposit and for the recovery of the filing fee. The tenant applied for a monetary order for the cost of moving and for the recovery of the filing fee.

Both parties attended the hearing and were given full opportunity to present evidence and make submissions. The landlord acknowledged receipt of evidence submitted by the tenant and agreed that he had not served a copy of his evidence to the tenant. Accordingly, the landlord's evidence was not used in the making of this decision.

While I have turned my mind to all the documentary evidence, including the testimony of the parties, only the relevant portions of the respective submissions and/or arguments are reproduced here.

The parties are scheduled to attend a hearing on April 23, 2023, to address an application made by the tenant. The landlord is at liberty to file his own application for the cost of cleaning/repairs and to retain the security deposit. Accordingly, this hearing only dealt with the tenant's application for the cost of moving and for the recovery of the filing fee.

Issues to be decided

Is the tenant entitled to a monetary order for moving costs and the filing fee?

Background and Evidence

The tenancy started on August 31, 2021. A copy of the tenancy agreement was filed into evidence. The monthly rent was \$1,800.00 and was payable on the first of the month. The tenant stated that he occupied the lower level of the home with his family. The landlords lived upstairs.

The tenant testified that the furnace was located on the level that he resided on and there were multiple requests from the landlords above to reset the furnace, every time it stalled. The landlord did get a repair person to attend to the furnace.

In the summer of 2022, the repair person advised the tenant to install a carbon monoxide detector. The landlord testified that the detector was installed despite the repair man also telling the landlord that it was not necessary as the fire/smoke detector was equipped with a carbon monoxide detector.

The tenant testified that on October 22, 2022, in the middle of the night, the CO monitor alarm went off and the loud ringing was heard by all occupants of the home. The tenant notified the landlord who told her that it was ok and nothing to be concerned about.

On November 06, 2022, the furnace quit working and the landlords asked the tenant to reset the switch. On December 04 and 05, 2022 the CO alarm sounded and the tenant asked the landlord to have the furnace checked out and he replied that a replacement part had been ordered and was on the way.

The tenant stated that shortly after, his wife and eight-year-old son developed symptoms of CO poisoning, like dizziness and nausea. The tenant informed the landlord that he had opened the windows for fresh air. The landlord disapproved of having the windows open in winter and asked the tenant to shut them.

On December 06, 2022, the CO monitor displayed the presence of CO in the rental unit and the tenant turned on the exhaust fan in the washroom. The fan was noisy, and the landlord complained about the disturbance and asked the tenant to shut it off at night.

On December 07, 2022, the monitor still recorded the presence of Carbon monoxide in the unit and the tenant notified the landlord. Later that day, the landlord served the tenant with a one month notice to end tenancy for cause.

The tenant disputed the notice in a timely manner and that matter is set to be heard on April 23, 2023. That application of the tenant also consists of other remedies that the tenant has applied for.

The tenant stated that he felt it was unsafe for him, his wife, and their eight-year-old son to continue to reside in the rental unit and therefore he decided to move out and did so on December 19, 2022.

The tenant agreed that the repair man visited a couple of times after the notice to end tenancy was served on him, but the CO monitor continued to show the presence of Carbon monoxide in the unit which prompted the tenant to move out as soon as it was possible to do so. The tenant hired a moving company and provided a receipt in the amount of \$635.25.

The tenant is also claiming the recovery of the filing fee of \$100.00.

Analysis

Based on the testimony of both parties and the evidence filed by the tenant, I find that tenant complained to the landlord on multiple occasions regarding the malfunctioning of the furnace. The landlord did hire a repair man each time, but the furnace continued to stall and the landlord continued to request the tenant to reset it, each time it stalled. Eventually, the repair person advised the landlord to install a CO monitor which he did.

A few months later the CO detector alarm went off on three different occasions and the presence of Carbon monoxide was displayed on the monitor. The tenant opened the windows to let in fresh air and when the landlord objected, he turned on the exhaust fan in the washroom. The landlord objected to the noise the fan made.

The monitor continued to record the presence of Carbon monoxide and the tenant decided that in the interest of the safety of his family, he had to move out of the rental unit as soon as possible.

Based on the above, I find on a balance of probabilities, that is more likely than not that the furnace was problematic and was emitting Carbon monoxide. I accept that in the interest of the safety and well being of his family, the tenant had to move out as soon as the monitor starting recording the presence of carbon monoxide in the rental unit. Since the tenant had to move in an expedited manner, I find he is entitled to the recovery of his moving costs, in the amount of \$635.25.

The tenant has proven his case and is entitled to the recovery of his filing fee of \$100.00.

The tenant has established a claim of \$735.25. I grant the tenant an order under section 67 of the *Residential Tenancy Act* for this amount. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order in the amount of **\$735.25**.
The landlord's application is dismissed with 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: February 23, 2023

Residential Tenancy Branch