



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Maple Leaf Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

The Tenants (hereinafter, the “Tenant”) filed their Application for Dispute Resolution (the “Application”) on February 27, 2023. They seek the Landlord’s compliance with the legislation and/or the tenancy agreement, and reimbursement of the Application filing fee.

The matter proceeded by hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on June 16, 2023.

Both the Tenant and the Landlord’s agent (hereinafter, the “Landlord”) attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present affirmed testimony during the hearing. The Landlord confirmed they received the Notice of Dispute Resolution Proceeding from the Tenant in advance, as well as the Tenant’s prepared documentary evidence.

Preliminary Matter – amended issue on Tenant’s Application

The Tenant applied for the Landlord’s compliance with the legislation and/or tenancy agreement. This concerned an issue of repair/maintenance in the rental unit, and the work was completed prior to this hearing. There is no ongoing issue of the Landlord’s compliance with the *Act*/tenancy agreement in relation to this completed work.

I examine the issue, as set out below, in terms of whether the Landlord breached any part of the *Act* and/or the tenancy agreement during that process of repair/maintenance. This is in order to examine the Tenant’s claim for compensation that they raised in the hearing. In line with this, I have amended the Tenant’s Application by adding the issue of compensation, which

necessarily examines whether the Landlord did not comply with the *Act*/tenancy agreement. My amendment of the Tenant's Application is authorized by s. 64(3) of the *Act*.

Issues to be Decided

Is the Tenant entitled to compensation for monetary loss or other money owed, pursuant to s. 67 of the *Act*?

Is the Tenant eligible for reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

In the hearing I confirmed the basic information about the tenancy agreement in place between the parties. The tenancy, as printed in the agreement, started on November 1, 2022. The rent amount is \$3,250 per month, as indicated by the Tenant on their Application.

The agreement provides for the Landlord and Tenant obligations on repairs and maintenance.

On their Application, the Tenant provided the statement:

Because of removed thermostats for repairing and replacing, we couldn't set a preferred temperature, and both thermostats worked continuously and consumed electricity. For that 1 month I received a bill of energy usage of \$449.64 between Dec 1st, 2022 and Jan 1st, 2023. On Jan 10th I emailed and requested the landlord to pay for the bill but since then he just postpones to send me the decision. Even I gave him deadline for Feb 10th, but still not receiving a solid answer.

In a written statement prepared for this hearing, the Tenant set out the following:

- the November 2022 electricity bill was \$201.78, not accounting for other deposits and fees for its' installation, as shown in the Tenant's evidence
- the electricity bill for December was \$449.64, as shown in the Tenant's evidence
- the electricity bill for January was \$286.09, as shown in the Tenant's evidence
- the thermostats (*i.e.*, the controllers for the heating system) in two bedrooms stopped working on December 9 – they requested repair that same day, and a tech determined that “two thermostats burnt out and stopped working”, and restored the heat
- the Tenant could not adjust the level of heat, and this “caused overuse of the heating system resulting in significantly higher electricity consumption”

- in the one-month period following, the Tenant sent three follow-up messages to the Landlord, and “to both of which follow-ups I was advised to wait”
- the tech replaced both thermostats on January 6, 2023.

On January 10, 2023, the Tenant received the electricity invoice for the month of December. That invoice is in the Tenant’s evidence. As set out in their written statement, they made “several requests” to the Landlord for assistance in paying the bill difference, and “all . . . were left without adequately convincing/satisfactory replies.”

In the Tenant’s email of January 10, 2023, they “ask the Landlord to pay my recent bill”. The Landlord forwarded this email to head office on January 12, 2023. The Tenant asked for clarification on January 17, and again on January 30, and again on February 6. The Tenant demanded a reply from what the Landlord identified as head office by February 10.

In the hearing the Tenant summarized their records and timeline. They stated they were “expecting a timely manner in addressing the issue” and “two regular thermostats should be easy to replace”. They confirmed that they received a notification of a reimbursement from the Landlord; this was a “lowball approach of \$100 on March 13”. They did not accept this amount, because it did not account for “pain and frustration”, and then the Landlord offered an amount of \$150. The Tenant stated these amounts on offer from the Landlord came “long after” they incurred the cost of having to file an Application at the Residential Tenancy Branch for this hearing.

In response in the hearing, the Landlord presented that the building is quite old, and they obtained the specialized thermostats through an electrician as fast as they could.

The Landlord set out that the process of reimbursement to a tenant requires approval by a supervisor. In this situation the Landlord required approval from corporate head office. They pointed to the Tenant’s own record as their communication to the Tenant on this process of reimbursement

Analysis

The Landlord’s obligation to provide and maintain a residential property in a suitable state of repair is set out in s. 32 of the *Act*. This is a state of decoration and repair that “complies with the health, safety and housing standards required by law”, and suitability for occupation by a tenant.

The *Act* s. 67 grants an arbitrator authority to determine an amount of compensation owing to a party for the other's breach of the tenancy agreement/*Act*, and order that the party not in compliance pay the other party. This may take the form of a reduction in rent, or an order for compensation.

Under s. 7 of the *Act*, a landlord or tenant who does not comply with the legislation or their tenancy agreement must compensate the other for damage or loss. Additionally, the party who claims compensation must do whatever is reasonable to minimize the damage or loss. Pursuant to s. 67 of the *Act*, I shall determine the amount of compensation that is due, and order that the responsible party pay compensation to the other party if I determine that the claim is valid.

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. To be successful in a claim for compensation for damage or loss an applicant has the burden to provide sufficient, compelling evidence to establish all of the following four points:

- That a damage or loss exists;
- That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
- The value of the damage or loss; **and**
- Steps taken, if any, to mitigate the damage or loss.

I find that there was no breach by the Landlord of their obligation to provide and maintain a state of suitable repair in the rental unit. I find the Landlord replaced the thermostats in a timely manner in the circumstances. I find the Landlord neither caused nor exacerbated any delay or difficulty with the work involved.

The Tenant incurred extra invoiced utility costs for this work. I find the Landlord reasonably attempted to reimburse the Tenant for the extra charges incurred in the month of December. The Tenant was not satisfied with the timeliness of the Landlord's offer, coming as it did after the Tenant paid the cost of filing their Application at the Residential Tenancy Branch.

Causally, I find the Landlord's offer was not hastened due to the fact that the Tenant applied to the Residential Tenancy Branch. The Tenant was unsatisfied at the timeline of being reimbursed. I find it was not reasonable for them to file at the Residential Tenancy Branch, and not in the interest of minimizing costs to them in doing so. Had the Tenant waited, I find they would have been reasonably covered for the extra invoiced cost to them. In sum, the Tenant was unreasonably imposing a timeline to the Landlord, not appreciating the Landlord's

process of obtaining approval for reimbursement. There is a corporate structure in place. I find the Landlord completed the work as efficiently and was processing the reimbursement to the Tenant as expediently as possible. The Tenant did not show the Landlord ignored them, or left messages unanswered.

I find the amount of \$150 covers the extra utilities cost to the Tenant in the month of December. This is given as the balance between the previous month's invoice for November, and the following month of January. I find the Tenant was in the process of being reimbursed for this amount. The Tenant filed their Application to the Residential Tenancy Branch on February 13; I find this was not an effort at mitigating the costs involved. For this, I grant the Tenant one-half of their Application fee to the Residential Tenancy Branch, with it being not fair to the Landlord to pay the filing fee, where they had initiated the process of reimbursement to the Tenant which simply required the Tenant to wait.

I find the Tenant is entitled to recover \$200. I authorize the Tenant to withhold the amount of \$200 from one future rent payment.

Conclusion

I grant the Tenant \$200 as compensation for monetary loss. By s. 72(2)(a), I authorize the Tenant to withhold this amount from their July 2023 rent, payable on July 1st.

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

Dated: June 19, 2023

Residential Tenancy Branch