



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR PSF FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on November 2, 2018. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the "Act").

The Tenant and the Landlord both attended the hearing. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me.

Both parties confirmed receipt of each other's documentary evidence package.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to an order that the Landlord provide services or facilities required by the tenancy agreement or law?
- Is the Tenant entitled to a rent reduction for the issue he identified?

Background and Evidence

The Tenant stated that he has lived in the rental unit for 11 years, and it wasn't until the current property managers took over the building 3 years ago that he started having

issues with his heat. The Tenant stated that he is a shift worker, and often wants heat in the middle of the night but when he goes to turn the heat up at his thermostat, nothing happens some of the time. The Tenant expressed that this issue with the heat only happens in the summer months, from June-September. The Tenant stated that this has been occurring over summer 2016, 2017, and 2018. The Tenant stated he is looking for his heating to be fixed and for \$50.00 in compensation per month, for the 9 months he has identified over summer 2016-2018. The Tenant seeks \$450.00 for this issue.

The Landlord provided testimony on this matter, and stated that when they took over managing the building 3 years ago, the heating wasn't functioning properly, and they had it repaired by a professional company. The Landlord stated that they currently have two separate companies who manage the boiler in the building for all 73 units. The Landlord explained that there is one central boiler, which is properly operating. The Landlord stated that this boiler is set to power down all heat in the building once the outside temperature goes below 21 degrees Celsius. Then when the temperature goes below that, it engages again. When the system is engaged, each unit in the building is then able to control the heat in their own units by way of a thermostat. The Landlord stated that all of these settings are automatic and functional. The Landlord provided letters from two different heating companies speaking to the functionality of the boiler system. The Landlord also provided a couple of witness letters. One of these letters indicates that the witness's apartment was comfortable and warm on the very day this Tenant complained it was cold. The other letter from the witness indicates that the building is actually too hot, and was during part of the time this Tenant felt it was too cold.

The Landlord stated that they have to balance the needs of all 73 units, and they have set it to a reasonable temperature, such that it serves the needs of most of the units. The Landlord stated that this is the only Tenant who has complained it is too cold. The Landlord pointed out that the Tenant has provided no evidence as to what the temperatures were at the material times.

The Tenant stated that when he comes home late at night, he knows the outside temperature is below 21 degrees, but his heat still won't come on.

Analysis

A party that makes an application against another party has the burden to prove their claim.

I have considered the totality of the evidence and testimony on this matter, and I note that the Tenant has provided no evidence as to what the temperatures were during the material times that he identified, which makes it difficult to determine whether or not the heating is properly functioning in his unit. I note the Landlord has provided witness statements, and letters from heating companies, speaking to the fact that the heating system functions as it should, and is set the same for all units. In this case, the Landlord has to balance the interests and preferences of an entire building, and has come up with settings that serve this purpose, aside from this one Tenant, who is the only one who has complained.

After reviewing the evidence and testimony, I find there is insufficient evidence that there is any issue with the heating which would warrant an order to fix or alter it. The Tenant has provided no evidence to substantiate what the temperatures were. It appears the Landlord already has a couple of different companies involved in maintaining the boiler system. I find the Landlord has taken sufficient steps to ensure the boiler is functional, and that it serves the needs of the majority of the rental units.

It appears the overall system is functioning, based on the evidence before me. However, I note the Tenant stated that there has been a couple of occasions where he has come home at night and the heat should have kicked in, but didn't. The Landlord stated that this should not have occurred and was unsure how it was possible, as all the settings for the boiler are automatic and pre-established. That being said, in order to ensure the Tenant's individual heat is functioning correctly, I order the Landlord to have the heating company attend the Tenant's unit and verify the heating controls and devices are working in the subject rental unit. I am satisfied the overall system is in sufficient working order, but out of an abundance of caution, it seems reasonable to have the Tenant's specific unit assessed, and subsequently fixed, if needed.

With respect to the Tenant's request for compensation (9 months x \$50.00) for the months where he felt his heat wasn't working properly, I find there is insufficient evidence as to what the temperature was or that it was not at a reasonable level. I acknowledge that heat is included in the Tenancy Agreement. However, there is insufficient evidence showing that this has not been provided, as required. I find it important to note that this heating system has to serve the needs of 73 units, and there has to be some automatic settings. I do not find there is sufficient evidence that the current settings are not appropriate or reasonable. I dismiss the Tenant's application for a rent reduction or for compensation for the 9 months he felt the heat was having issues.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenant was largely unsuccessful in this hearing, I decline to award the \$100.00 fee the Tenant paid to make the application for dispute resolution.

Conclusion

The Tenant's application is dismissed, without leave.

The Landlord is ordered to have an appropriate heating contractor attend the Tenant's rental unit to ensure the heating system within the rental unit is functioning as it should.

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: November 5, 2018

Residential Tenancy Branch