

Residential Tenancies Tribunal

Decision 19-0445-05

Denise O'Brien
Adjudicator

Introduction

1. The hearing was called at 1:15 p.m. on July 4, 2019 at Residential Tenancies, Motor Registration Building, 149 Smallwood Drive, Mount Pearl, NL
2. The tenant, [REDACTED], hereafter referred to as the tenant, participated in the hearing.
3. The landlord, [REDACTED], represented by [REDACTED], hereafter referred to as the landlord, participated in the hearing through a conference call.

Preliminary Matters

4. The tenant discontinued the claim to have the line from the hot water boiler going to the furnace for the upstairs unit disconnected. She also discontinued the claim to have the rent paid in trust. The tenant amended the claim for payment of utilities from \$300.00 to \$400.00.

Issues before the Tribunal

5. The tenant is seeking the following:
 - a. Compensation for inconvenience in the amount of \$225.65;
 - b. Payment of utilities in the amount of \$400.00;
 - c. Repairs to be carried out on the unit;
 - d. Hearing expenses.

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in the Residential Tenancies Act, 2018 (the Act), Section 47.
- 7 Also relevant and considered in this case are Section 10 of the Act and Policy 12-1: *Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*.

Issue 1: Compensation for inconvenience - \$225.65

Tenant Position

8. The tenant testified that she moved into the unit on March 1, 2019 for a 12 month term with rent set at \$650.00 per month due on the 1st of each month. In May 2019 when the maintenance person came to the unit, she mentioned to him the issue she was having with the hot water. If the upstairs tenants were using hot water, she does not have any hot water. The maintenance person said it sounds it all might be hooked up together. She then made a phone call to the landlord. The landlord said he would check with the owner. The landlord returned her call and told her he checked with the owner and the owner said that the furnace water is not heated by the hot water tank. She then hired Mr. Rooter to have them check out the situation. [REDACTED], the representative from Mr. Rooter, came to the unit. After he inspected the hot water boiler, he informed her that there was a valve open on the hot water boiler that was feeding hot water to the furnace line as well. When the valve was closed the upstairs tenant came to her unit and said they don't have hot water upstairs. She testified that on July 2, 2019 the landlord had a plumbing company go to the unit and close of the valve. She paid Mr. Rooter \$225.65 for the inspection of the hot water tank. The tenant presented a copy of the invoice from Mr. Rooter (T#3). The invoice gave a description of the work completed.

Landlord Position

9. The landlord testified that he doesn't recall giving approval to the tenant to hire Mr. Rooter. They hired a third party, Keith's Plumbing, to do an inspection. Keith's Plumbing reported back to the landlord with the same outcome as the report the tenant received from Mr. Rooter. The landlord said they hired Keith's Plumbing to disconnect the valve going to the furnace.

Analysis

10. I have reviewed the testimony and evidence of the tenant and the landlord. I have determined that there is one issue that needs to be addressed; is the landlord responsible for the cost of the plumber's bill. I find the tenant had an issue with the hot water in the unit. When she contacted the landlord, the landlord did not have a plumbing company inspect the hot water tank. The tenant hired a plumbing company. When the company inspected the hot water boiler it was determined that the hot water boiler in the tenant's unit was supplying hot water to the upstairs tenants. The landlord had another plumbing company inspect the hot water boiler. That company had the same results. As it was determined that the hot water boiler in the tenant's unit was supplying the hot water for the upstairs tenants, the landlord would be responsible for the cost the tenant incurred to have the inspection carried out. Therefore, the tenant's claim for payment of the plumber's bill succeeds in the amount of \$225.65.

Decision

11. The tenant's claim for compensation for the cost of the plumber's bill succeeds in the amount of \$225.65.

Issue 2: Payment of utilities - \$400.00

Tenant Position

12. The tenant testified that she is seeking \$100.00 for each month for 4 months for the cost of the hot water for the upstairs unit. She said there is a family of 4 living upstairs and she is the only one living downstairs. She turned off all of the heat in the unit on May 14, 2019 and the power bill was \$187.94. The tenant submitted 4 Newfoundland Power bills for the period February 26 – June 13, 2019; the bill for the period February 26 – March 14, 2019 is \$172.83; the bill for March 14 – April 12, 2019 is \$275.29; the bill for April 12 – May 14, 2019 is \$232.45 and the bill for May 14 – June 13, 2019 is \$187.94.

Landlord Position

13. The landlord testified that he is not disputing there was a water line from the hot water boiler in the tenant's unit going to the furnace for the upstairs unit.

Analysis

14. After reviewing the testimony and evidence of the tenant and landlord, I have determined that there is one issue that needs to be addressed; should the

tenant be compensated for the cost of the hot water for the upstairs unit. As it was discovered after the tenant moved into the unit, the tenant was paying for the hot water for the upstairs unit, the landlord shall compensate the tenant for the hot water used by the upstairs tenants. The landlord is not disputing there was a line going from the downstairs hot water boiler to the furnace in the upstairs unit. I have viewed Newfoundland Power's website and the average cost of water heating on a power bill is about 20% of the bill. The power bills submitted by the tenant total \$868.61 (\$172.83 + \$275.29 + \$232.45 + \$187.94 = \$868.51). 20% of \$868.51 = \$173.70. As there are 4 people living upstairs and one tenant living downstairs, I conclude that the upstairs unit would be responsible for 70% of the hot water. Therefore, the landlord shall compensate the tenant in the amount of \$121.59 (\$173.70 x 70% = \$121.59) for the hot water used by the upstairs tenant.

Decision

15. The landlord shall compensate the tenant \$121.59 to cover the cost of the hot water used by the upstairs tenants.

Issue 3: Repairs to be completed

Tenant Position

16. The tenant testified that she sent a Request for Repairs to the landlord on May 19, 2019 and the repairs have not been carried out as of the date of the hearing. The repairs that need to be completed are:
 - (i) the lock is broken on the living room window;
 - (ii) there are three window screens missing and two damaged;
 - (iii) the wrong smoke detectors are in the unit;
 - (iv) the window in the spare bedroom is held shut by a stick.
17. The tenant testified that when she walked through the unit with the real estate agent prior to moving in, it was determined that the living room window lock was damaged. Two screens were damaged; one in the living room and one in the bedroom. Three screens were missing; one in the living room, one in the 2nd bedroom and the screen for the door. She presented a copy of the Rental Premises Condition Report (T #4). She said the unit does not have a carbon monoxide detector. According to the gentleman who did the walk through with her, they don't have the correct smoke detectors for a furnace being on site. They should have a carbon monoxide detector.
18. The tenant also testified that the window in the 2nd bedroom is old. The locks do not work on it. It is kept shut with a stick. She would like to be able to lock the window.

19. The tenant said that she is not requesting rent to be paid in trust as the hot water was her main concern. That issue has been corrected.

Landlord Position

20. The landlord testified that he is committed to having the windows repaired. He is going to check on having the damaged screens repaired and replacing the missing screens. He said it was his understanding that the detector in the furnace room served as a carbon monoxide detector and as a smoke sensor but he will have the detector checked out. He testified that shortly after he received the request for repairs he sent a work order to a third party contractor, [REDACTED]. A 10 minute recess was taken during the hearing so that the landlord could contact the contractor, [REDACTED]. When the hearing was reconvened the landlord said that [REDACTED] would be at the unit on Tuesday, July 9, 2019 at 8:00 a.m. to do an assessment on the repairs.

Analysis

21. I have reviewed the testimony and evidence of the tenant and the landlord. I have determined that there are two issues that need to be addressed; (i) are there repairs that need to be corrected; and (ii) is the landlord required to carry out the repairs. The landlord is not disputing that the repairs the tenant is requesting need to be carried out. He stated at the hearing he is committed to having the issues repaired and arrangements were made with his contractor to go to the unit to assess the damages. As there are repairs to be carried out, the landlord shall have the repairs carried out by October 31, 2019.

Decision

22. The landlord shall carry out the following repairs by October 31, 2019:
 - a.) Repair/replace the locks on the windows in the living room and the 2nd bedroom;
 - b.) Repair the broken window screens and replace the missing window screens;
 - c.) Check to see if there is a carbon monoxide detector in the unit. If need be install a carbon monoxide detector in the unit.

Issue 3: Hearing Expenses - \$20.00

23. Under the authority of Section 47.(q) the director may require the unsuccessful party to pay costs to the successful party to an application. Costs eligible to be awarded are identified in *Policy 12-1: Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*.

Tenant Position

24. The tenant paid an application filing fee in the amount of \$20.00. The tenant is seeking this cost.

Analysis

25. The cost the tenant incurred to make the application is considered a reasonable expense as per *Policy 12-1 Recovery of Fees: Filing, Costs and Hearing Expense, Interest, Late Payment and NSF*. As the tenant's claim was successful, the landlord is responsible to cover the cost of the hearing expenses in the amount of \$20.00.

Decision

26. The landlord shall pay the tenant's hearing expenses in the amount of \$20.00.


Summary of Decision

27. The tenant is entitled to the following:

- a) Compensation for the plumber's bill.....\$225.65
- b) Payment of utilities\$121.59
- c) Hearing expenses..... \$20.00
- d) **Total owing to Tenant.....\$367.24**

- e) The landlord shall carry out the following repairs to the unit by October 31, 2019
 - a) Repair/replace the locks on the windows in the living room and the 2nd bedroom;
 - b) Repair the broken window screens and replace the missing window screens;
 - c) Check to see if there is a carbon monoxide detector in the unit. If need be install a carbon monoxide detector in the unit.

October 8, 2019
Date


Residential Tenancies Section