

Staff Report

RENTAL PROPERTY COMPLAINT & REQUEST FOR PAYMENT

November 30, 2018

BACKGROUND:

During the 'Disposition of Communications to Council' discussion at the Council meeting on September 25, 2018, the City Council requested a memo from staff in response to the letter from Carson Sinclair dated September 21, 2018 (Attachment A).

Mr. Sinclair's letter requesting payment of \$5,900 for lost rent/deposit is the result of a tenant complaint case that the Inspection Division handled at his residence, 322 N. Russell, in January of 2017. The tenant complaint process gives tenants the ability to contact the Inspection Division when a landlord has failed to correct a deficiency outside of the normal inspection cycle. In this case, the complaint was that the mechanical equipment was not capable of heating to or maintaining a minimum of 68 degrees as required by the Rental Code. Below is a timeline and summary of the actions taken by the Inspection Division:

October 4, 2017 – 4 year LOC Issued (New Rental) *Owner submitted an invoice from Benjamin Franklin Plumbing showing a Performance Tune-Up was performed on 10/3/16

January 23, 2017 – Tenant Complaint Form (Attachment B) submitted by Stacy Burdess

January 24, 2017 – Inspections contacted property manager. He stopped in to discuss the situation in person the same day.

January 24, 2017 – One Hour Air Conditioning and Heating submitted a Fuel Burning Certification Form (Attachment C) as a result of their inspection. The form indicated that the furnace passed all checks and a handwritten note stated that the furnace was operating properly and that it reached 68 degrees while the tech was on-site. They did recommend an evaluation of the ductwork to increase efficiency.

January 25, 2017 – After review of the Fuel Burning Certification and confirmation that the mechanical equipment reached 68 degrees, the case was closed.

January 30, 2017 – Ms. Burdess and Mr. Sinclair met with Inspections staff to discuss the continued lack of heat. The tenants felt that the City hired One Hour and paid them to make the furnace pass. In an attempt to show that was not the case, Inspections asked Mr. Sinclair what company he would prefer do the evaluation. He stated he would

like Neighbors Heating and Cooling to perform the test so the City hired and paid for a second opinion from Neighbors Heating and Cooling.

The invoice from Neighbors (Attachment D) stated:

“When I got to the house system was at 51 degrees. Ran for an hour and never got to 68 degrees. The back room was about 10 degrees colder than the main living room with the thermostat. Would probably need to do more returns and ductwork to get it to even out properly. Back rooms will never get to the same temperature as the thermostat as of right now.”

February 1, 2017 – Inspections sent a deficiency letter (Attachment E) to the landlord indicating that repairs were needed to get the furnace in a code compliant state.

February 14, 2017 – The landlord hired One Hour Air Conditioning and Heating to perform the recommend repairs (Invoice is Attachment F) to get the furnace functioning properly. At that time, the tenants had vacated the property. Inspections was not able to follow up with the tenants to ensure compliance as they had moved out.

STAFF COMMENTS:

While a valid concern and code deficiency (Rental Code requires a minimum of 68 degrees), the lack of heat was not deemed a life safety issue. Had the heat not been functioning at all, Inspections would have determined there was a life safety violation and required the landlord to cause the dwelling to be vacated until the proper repairs were made to return the home to a habitable state. The Rental Code does not require the landlord to supply interim housing. Any arrangements for interim housing would have to be agreed to by the tenant and the landlord.

Any compensation agreements or lease violations between the tenant and the landlord are considered civil matters and should be handled between those two parties and their attorneys. The City cannot require the landlord provide alternative housing such as another unit or a hotel; they can only require that the unit be vacated. It is never recommended that a tenant not pay rent or move out without obtaining legal advice.

If a tenant files a complaint over a civil matter or something else not addressed in the Rental Code, Inspections recommends seeking legal advice and provides information for Story County Legal Aid, ISU Student Legal Services, and HOME, Inc.; all local entities that provide free legal advice.