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Governor



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Commissioner

New York State Division of Housing and Community Renewal  
Office of Rent Administration  
Gertz Plaza  
92-31 Union Hall Street  
Jamaica, NY 11433

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Your correspondence has been forwarded to me for a reply.

You inquire as follows:

I have lived in this rent-stabilized apartment since July 1, 2001. The building was constructed in 2001, and each apartment has a small boiler to heat the water. Tenants have paid the electricity consumed to heat the water. I have paid an electricity bill from \$80 to \$110 a month.

According to the NYC Rent Stabilization Law, a rent-stabilized building owner is required to maintain hot and cold water. I have talked to a counselor of your agency, and he has advised me to file a form RA-81 – Application For Rent Reduction.

I have not filed this form yet. Before filing this form, I want to make sure whether this action is appropriate based on the aforementioned situation....

Please be advised that Rent Stabilization Code (RSC) Secs. 2520.6(r) and 2523.4 require an owner to provide and maintain all services provided or required to be provided on the applicable base date, and any additional services actually provided or required to be provided thereafter by applicable law. These services are called required services and may include, but are not limited to, repairs, maintenance, the furnishing of light, heat, hot and cold water, elevator services, janitorial services, the removal of refuse, and ancillary services, such as garage, recreational facilities and security. The base date for required services of rent-stabilized housing accommodations depends on the controlling law or regulations of the housing accommodations. For example, the base date for new construction housing accommodations built pursuant to Real Property Tax Law (RPTL) Sec. 421-a is the date of issuance of the initial certificate of occupancy. Accordingly, if your housing accommodations were built pursuant to the 421-a new construction program, then the owner must maintain those services he or she provided on the date of the issuance of the certificate of occupancy, and those additional services he or she actually provided or was required to provide thereafter pursuant to law.

Although Housing Maintenance Code (HMC) Sec. 27-2031, titled *Supply of hot water; when required*, requires an owner to supply hot water from a central source, the Code also authorizes the appropriate agency the discretion to approve the use of gas or electric water heaters, instead of from a central source, "if such heaters: (1) are lawfully in use on July fourteenth, nineteen hundred sixty-seven; or (2) are approved by the appropriate city agencies having jurisdiction and are installed in a structure or building erected, converted, substantially rehabilitated, or completely vacated after July fourteenth, nineteen hundred sixty-seven." Subdivision e of HMC Sec. 27-2032, titled *Gas-fueled or electric heaters*, provides that "[t]he owner shall not, unless otherwise agreed between owner and tenant, be required to pay for the gas or electricity used by such heaters."

To obtain an agency determination as to whether the owner has failed to maintain your hot water service, you must file a *Failure To Provide Heat and/OR Hot Water – Tenant Application For Rent Reduction*, (DHCR Form HHW-1). For other individual apartment services, you must file the RA-81.

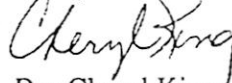
For your information, we enclose the following Fact Sheets: #1 – *Rent Stabilization and Rent Control*; #3 – *Required and Essential Services*; #14 – *Rent Reductions for Decreased Services*; and #15 – *Heat and Hot Water*. Also enclosed are the following: *Failure To Provide Heat And/Or Hot Water – Tenant Application For Rent Reduction*, (DHCR Form HHW-1); *Application For A Rent Reduction Based Upon Decreased Service(s) – Individual Apartment*, (DHCR Form RA-81); *Application For A Rent Reduction Based Upon Decreased Building-Wide Service(s)*, (DHCR Form RA-84); *Supplemental Signature and Affirmation*, (DHCR Form RA-84.1) and *Supplement to Application for a Rent Reduction Based Upon Decreased Building-Wide Service(s) Laundry, Doorman, Security, Storage and/or Playgrounds*, (DHCR Form RA-84.2). If you have additional questions or need additional information, you may access the DHCR website noted below, visit any DHCR Borough Rent Office, or call the DHCR RentInfo line at (718) 739-6400.

We trust that we have responded as fully as possible to your inquiry under the circumstances.

Please be advised that this opinion letter is not a substitute for a formal agency order issued upon prior notice to all parties and with all parties having been afforded an opportunity to be heard.

Very truly yours,

Gregory C. Fewer  
Director  
Policy Unit



By: Cheryl King  
Senior Attorney

GCF:CK

CC: Deputy Commissioner Torres  
(col-2444)

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