



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Dispute Codes: CNR OPR MNR MNDC FF

Introduction

This hearing dealt with an application by the tenant for cancellation of a notice to end tenancy and a monetary order, and an application by the landlord for an order of possession and a monetary order. The tenant and the landlord participated in the teleconference hearing and provided documentary and testimonial evidence to support their claims.

At the outset of the hearing the parties confirmed that the tenancy ended on January 31, 2009, and I therefore did not need to consider the portions of their applications regarding the notice to end tenancy and the order of possession.

Part of the tenant's claim and the landlord's claim related to a shop that the tenant rented from the landlord under a separate, commercial lease. I informed the parties that I do not have jurisdiction to hear or decide any matters regarding the commercial lease, and I therefore dismiss those portions of their applications.

Issue(s) to be Decided

Is the tenant or the landlord responsible for the gas bill?

Is the tenant entitled to compensation for electricity for the barn?

Is the tenant entitled to compensation claimed for flooring, the dishwasher and pool repairs?

Is the landlord entitled to monetary compensation for unpaid rent?

Background and Evidence

The tenancy began on December 1, 2005, with monthly rent in the amount of \$1100. Electricity and gas were not included in the rent. A barn, which was not part of the rental property but rather a separate commercial property of the landlord, was powered by electricity on the same account as the tenant's residence. The rental property included a pool, which was heated with gas. The gas account was in the landlord's name. In the summer of 2006, the tenants used gas to heat the pool, and the landlord received gas bills totaling \$1855.55. The tenant made two payments of \$100 each to the landlord toward the gas bills. The tenant did not pay rent for December 2008 or January 2009.

The tenant and the landlord have applied for compensation on several items, as follows:

a) gas to heat the pool

The tenant has applied for return of the \$200 he paid toward the gas bills, on the basis that the landlord was responsible for the gas. The landlord has applied for \$1655.55 for the remainder of the gas bills, on the basis that the tenancy agreement did not include gas, the tenant consumed the gas, and therefore the tenant should pay for the gas.

b) electricity to the barn

The tenant has applied for compensation of \$50 per month for 36 months for providing electricity to the barn. The landlord acknowledged that he should have had the barn powered separately and the tenant is entitled to some compensation, but the landlord does not believe that the amount the tenant has claimed accurately reflects the amount of power the barn actually consumed. The landlord has calculated a total of \$525 for the cost of electricity consumed by the barn. The tenant's response to the landlord's evidence on this point was that the landlord did not properly take into account the numerous tenants who rented the barn, and on at least one occasion a person was staying in an RV that was plugged into the barn for an unknown period of time.

c) flooring, dishwasher and pool repairs

The tenant's evidence was that during the tenancy he performed repairs on the dishwasher and pool, and paid for "start-up" costs for the pool that the landlord should have paid, and he installed some flooring transitions. The tenant has claimed \$100 for dishwasher repairs, \$400 for pool repairs and start-up costs, and \$200 for flooring. The landlord's response was that the tenant did the work himself, without the landlord's authorization, and did not provide receipts.

d) unpaid rent

The tenant did not dispute that he had not paid rent for December 2008 or January 2009. The landlord claimed \$2200 for unpaid rent for those two months.

Analysis

I find that the tenants are responsible for the gas bills, as part of the utilities, pursuant to the tenancy agreement. The landlord is entitled to \$1655.55 for the gas bills, as well as \$2200 for unpaid rent, for a total of \$3855.55.

The landlord acknowledged that he ought to pay some compensation to the tenant for electricity consumed by the barn. I find that the landlord's calculations do not take into account the potential far greater electricity consumption by the barn, and I therefore find that the tenant's claim for \$50 per month is reasonable. The tenant is entitled to \$1800 for electricity for the barn.

In regard to the remainder of the tenant's claim, I find that the tenant did not provide sufficient evidence to support his claims for compensation for the dishwasher, pool and flooring, and I therefore dismiss that portion of the tenant's application.

The tenant applied for and is entitled to recovery of the \$50 filing fee for the cost of his application, for a total of \$1850.

Conclusion

I grant the landlord an order under section 67 for the balance due of \$2005.55. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Dated February 17, 2009.