



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes DRI, CNR, RP, RR, FF

Introduction

This hearing was due to deal with an Application for Dispute Resolution by the tenant to dispute an additional rent increase, to cancel a Notice to End tenancy for unpaid rent or utilities, to Order the landlord to make repairs to the unit, to allow the tenant to reduce rent for repairs, services of facilities agreed upon but not provided and a Monetary Order to recover the filing fee. At the outset of the hearing the tenant stated that she has moved from the unit and withdraws her application to cancel the Notice to End Tenancy and to Order the landlord to make repairs.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

Issues(s) to be Decided

- Has the landlord increased the tenants rent?
- Is the tenant entitled to recover any money for overpaid rent or for services or facilities agreed upon but not provided?
- Is the tenant entitled to recover her filing fee for this application?

Background and Evidence

This tenancy started on September 05, 2008 and ended on or about August 20, 2009. The tenants' rent for this basement suite was \$775.00 per month including utilities. The tenancy agreement states that the utilities are based on equal payments divided with the upper floor occupants. If the utility costs exceed the equal payment plan, the renters of both suites are responsible for the cost difference to the landlord.

Both the landlord and tenant agree that when the tenant moved into the suite there was cable service, however this was not part of the tenancy agreement. They agree that the landlord asked the tenant if she wanted to keep this and pay \$34.60 per month for the service. The tenant agreed and paid \$34.60 in September but found after the first month that she could no longer afford it and asked the landlord to disconnect it.

The tenant testifies that she paid \$25.00 per month extra for this service and continued paying this \$800.00 per month from November to July 2009.

The landlord disputes this. He testifies, and has produced evidence, that states the tenant asked him to disconnect the cable in October, 2008. When he contacted the cable company for disconnection he had to pay the monthly charge for October, 2008 of \$34.60. He passed this on to the tenant as she had agreed to take over the cable costs when she moved in.

The landlord testifies that the additional \$25.00 per month the tenant paid was for the increased usage of gas. He had given both the upstairs and downstairs tenants the gas bill which showed the monthly payment plan had increased due to excess usage and the tenants 40% share of this was an additional \$25.00 per month starting in November, 2008. The tenants' hydro bill also increased and the tenants' share of this was an

Residential Tenancy Branch
Ministry of Housing and Social Development

additional \$6.00 per month which increased in August 2009. The landlord states that the tenants' rent has not increased throughout the term of her tenancy. The tenant was served a 10 Day Notice to End Tenancy for Unpaid Rent on August 11, 2009. This Notice states the tenant owed \$850.67 in unpaid rent/utilities. The tenant disputed this Notice on August 17, 2009. However, she moved out of the rental suite on August 20, 2009.

The tenant disputes the additional gas and Hydro costs and states that these increased due to the tenants upstairs having four people living in their suite. They also controlled the heat for her unit and she had to buy a space heater for the winter when she found they were not turning the heat up enough to heat her suite.

The landlord disputes this. He testifies that there were three people living in the three bedroom upstairs suite and their share of the utilities were 60% of the total costs as this is a larger suite.

Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. Based on the inconsistency between the tenants' evidence and the evidence of the landlord I find little evidence to support the tenants' application.

In this matter, the tenant has the burden of proof and must show (on a balance of probabilities) that the landlord did increase the rent to \$800.00 and the tenant was paying this increased amount for the cable service. When questioned, the tenant did not know why she was continuing to pay this amount for a service that had been disconnected in October, 2008. The tenant has also failed to provide any evidence that the increase for the gas and hydro was unfair due to additional tenants living in the

Residential Tenancy Branch
Ministry of Housing and Social Development

upstairs suite. In this instance the tenant would need to provide additional, corroborating evidence to satisfy the burden of proof. In the absence of any corroborating evidence, I find that the tenants evidence is not sufficient to show that the landlord has increased the rent and that the tenant has paid more for a service or facility that is not documented in her tenancy agreement.

I find the landlords' evidence clearly shows the tenancy agreement which states he can charge extra for additional gas and Hydro usage and that the 40% / 60% split is fair, based on the square footage of the two suites, to both sets of tenants. I find the additional \$25.00 the tenant has been paying each month was for the extra amount for the payment plan on these utilities and not for the cable use the tenants' testimony suggests.

Conclusion

I find the tenants application has no merit and is dismissed in its entirety without leave to reapply.

I also find that as the tenant has not been successful with her application she must bear the cost of the \$50.00 filing fee for this proceeding.

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: October 07, 2009.

Dispute Resolution Officer