

DECISION

Dispute Codes:

MNDC

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant made application for compensation for heating oil left in the tank at the rental unit.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present oral testimony and to make submissions during the hearing.

Preliminary Matter

The tenant's Application indicated that she is claiming compensation in the sum of \$650.00. The Application details included the claim in the sum of \$695.00, although the correct Application code was excluded.

Issue(s) to be Decided

Is the tenant entitled to compensation for loss under the Act?

Background and Evidence

The tenancy commenced in February 2003 and ended on August 31, 2009. The tenant spoke with the property owner who initially agreed to reimburse the tenant for heating oil left in the tank at the rental unit when the tenancy ended. The tank had been empty at the start of the tenancy. After the tenant moved out the property owner did not wish to reimburse the tenant for the oil.

The landlord's agent acknowledged receipt of Columbia Fuel receipts from the start of the tenancy showing that the tenant paid \$811.06 to fill the heating oil tank. These receipts were not before me.

The parties agreed that on September 2, 2009, Columbia Fuels dipped the tank and confirmed that heating oil valued at \$652.00 was left in the tank.

The landlord has just sent the tenant a cheque in the sum of \$445.00, and plans on reimbursing her a further \$185.00. The landlord has determined that the tenant is entitled to the value of the fuel remaining in the tank on December 1, 2009, when new tenants took possession of the rental unit.

Analysis

I find, based upon the agreement of both parties, that the tenant did fill the oil tank at the start of the tenancy. I also find that at the end of the tenancy heating oil valued at \$652.00 was left by the tenant and that the landlord did agree to a term providing compensation to the tenant for the cost of the oil left at the rental unit.

The landlord has sent the tenant a cheque representing partial payment, in the sum of \$445.00; the tenant has yet to receive this cheque. I find, pursuant to section 67 of the Act, that the tenant is entitled to return of \$650.00 paid for heating oil and left for the landlord's use at the end of the tenancy. I find that the expectation that the tenant pay for heating oil from September to December, 2009, is unwarranted and that this cost falls to the landlord, who had possession of the rental unit.

I find that the property owner did agree to compensate the tenant for the cost of heating oil left in the rental unit and that this cost formed a part of the tenancy.

Therefore, I have issued the tenant a monetary Order in the sum of \$652.00. Any payments made to the tenant by the landlord will be brought to the attention of the Small Claims Court and adjusted accordingly.

Conclusion

I find that the tenant has established a monetary claim, in the amount of \$652.00, which is comprised of heating oil costs.

Based on these determinations I grant the tenant a monetary Order for \$652.00. In the event that the landlord does not comply with this Order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an Order of that Court. Any payment made by the landlord will be brought forward to Small Claims Court and the amount owed will be adjusted accordingly.

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: May 28, 2010.

Dispute Resolution Officer

