



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes OPR, MNR, MNSD

Introduction

At the outset of the hearing the landlords' agent stated that they withdrew their application for an Order of Possession and unpaid rent as Orders were issued at a direct request proceeding held on September 10, 2010. The landlord seeks to continue this hearing for a Monetary Order for unpaid utilities and to keep all or part of the security deposit.

Service of the hearing documents, by the landlord to the tenant, was done in accordance with section 89 of the *Act*, sent via registered mail on August 06, 2010. Mail receipt numbers were provided in the landlord's documentary evidence. The tenant was deemed to be served the hearing documents on August 11, 2010, the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlords agent appeared, gave affirmed testimony, was provided the opportunity to present her evidence orally, in writing, and in documentary form. There was no appearance for the tenant, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*.

All of the testimony and documentary evidence was carefully considered.

Issues(s) to be Decided

- Is the landlord entitled to a Monetary Order for unpaid utilities?
- Is the landlord entitled to keep all or part of the tenants' security deposit?



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Background and Evidence

The landlords' agent states that this tenancy started on March 01, 2010. This was affixed term tenancy which was due to expire on July 31, 2010. The tenant moved from the rental unit on September 07, 2010. The tenants rent for this unit was \$1,075.00 per month and he paid a security deposit of \$540.00 on March 06, 2010.

The landlords' agent testifies that the tenant did not pay his utilities during his tenancy. She claims he was given a copy of these utilities and demands for payment. The amount of outstanding utilities to date is \$375.09. The landlord has provided copies of these utility bills and the demands for payment.

The landlord seeks to keep part of the tenants' security deposit of \$540.00 in payment of these bills.

Analysis

The tenant did not appear at the hearing to dispute the landlords' claims, despite having been given a Notice of the hearing; therefore, in the absence of any evidence from the tenant, I find the landlord gave the tenant a 10 Day Notice to End Tenancy pursuant to section 46 (6)(b) of the *Act* and written demands for payment of his utilities were also given to the tenant. However the tenant failed to pay the outstanding amount of \$375.09. Consequently it is my decision that the landlord has established his claim for unpaid utilities of \$375.09.

I find the landlord is entitled to keep part of the tenants' security deposit of \$375.09.

Conclusion

I Order the landlord to keep part of the tenants security deposit to the sum of \$375.09 in satisfaction of his claim and the remainder of the deposit of \$192.91 must be returned to the tenant or dealt with in accordance with section 38 of the *Act*.



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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: September 22, 2010.

Dispute Resolution Officer