

## **DECISION**

Dispute Codes      CNR, MNR, MNDC, RR, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46;
- a monetary order for the cost of emergency repairs and for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover his filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present evidence and to make submissions. The male tenant testified that he received the landlord's 10 Day Notice to End Tenancy for unpaid rent on September 10, 2010 and handed a representative of the landlord a copy of the application for dispute resolution on September 14, 2010. The landlord confirmed receipt of this material. I am satisfied that the tenant served this application in accordance with the *Act*.

The parties testified that the tenant paid the outstanding rent shortly after applying for dispute resolution. The landlord said that he was no longer pursuing the notice to end tenancy for unpaid rent. The tenant confirmed that he was no longer seeking dismissal of the landlord's notice to end tenancy.

The tenant testified that he received compensation from the landlord's insurance company for the emergency repairs the tenant conducted when the rental premises were flooded. He said that the only issues he wished to pursue at this hearing were to

recover the filing fee for this application and to recover the costs he had incurred in preparing for and attending the dispute resolution hearing.

#### Issues(s) to be Decided

Are the tenants entitled to a monetary Order for the costs they incurred in preparing for and attending the dispute resolution hearing? Are the tenants entitled to recover their filing fees for this application from the landlord?

#### Background and Evidence

This fixed term tenancy commenced on March 3, 2010 and was scheduled to end on March 1, 2011. Monthly rent is set at \$850.00, payable on the first of each month. The tenants also pay  $\frac{1}{4}$  of the utility costs. The tenants incurred costs in July 2010 when their rental premises were flooded.

The tenants refused to pay their outstanding rent in September 2010 while they were awaiting payment from the landlords' insurance company. That company advised the landlords on September 3, 2010 that the \$1,548.00 claim the tenants had submitted for these repairs were approved and a cheque would be received by the landlord within 10 business days. The landlords issued a Notice to End Tenancy on September 10, 2010.

The tenants requested reimbursement of \$216.00 to prepare and file their application to the Residential Tenancy Branch and \$112.00 for the wages the male tenant would lose by taking a day off work to participate in the dispute resolution hearing. The tenants also requested recovery of their \$50.00 filing fee for this application.

#### Analysis

I dismiss the tenants' application for a monetary Order as only the filing fees are recoverable.

The parties presented evidence regarding the tenants' request to recover the filing fee for this application from the landlords. The tenant said that he had to file for dispute resolution by September 14, 2010 to meet the five day time limit set out in the landlord's

notice to end tenancy for unpaid rent. At one point during the hearing, I noted that it appeared that the tenant's request for recovery of the filing fees had an element of merit as the tenant was seeking cancellation of the landlord's notice to end tenancy as well as an application for a monetary Order. However, the landlord provided additional oral testimony that he forwarded the tenant a copy of the insurance company's September 3, 2010 email which confirmed that the claim for emergency repairs was being paid and would be received by the landlord within 10 business days.

I do not allow the tenants' claim for recovery of the filing fee for this application. When the tenants decided to refuse paying outstanding rent, they had no order from a dispute resolution officer allowing them to do so. Their subsequent decision to pay the outstanding rent and the landlords' decision to accept this payment negated the need to continue with that aspect of this dispute resolution proceeding. I do not find that the landlords should be held responsible for the tenants' filing fees.

### Conclusion

I dismiss the tenants' application for a monetary Order. I dismiss the tenants' application to recover their filing fee for this application from the landlord.

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*.