



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC

Introduction

This hearing dealt with the Tenant's Application for a monetary order for money owed or compensation for loss under the Residential Tenancy Act (the "Act"), regulation or tenancy agreement.

Although served with the Application for Dispute Resolution and Notice of Hearing by registered mail on November 18, 2011 and regular mail on March 16, 2011, the Landlord did not appear. I was satisfied that the Landlord was served in accordance with Section 89 of the Act and the hearing proceeded in the Landlord's absence.

The Tenant and her advocates appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions to me.

Issue(s) to be Decided

Is the Tenant entitled to the relief sought in her Application?

Background and Evidence

The parties have been involved in prior dispute resolution, the Decision for which was dated October 14, 2010. The Decision resulted in the Landlord being required to put the utilities in his name and pay for the same as utilities were deemed to be included with rent.

The previous Decision gave the Tenant a onetime rent abatement which was to be deducted from the November 2010, rent and further stated that if the Landlord failed to put the utility account in his name, the Tenant was granted liberty to make another application for dispute resolution seeking to have the order enforced through a corresponding rent abatement equal to the cost of the utilities or other remedy.

The Tenant testified that since the previous Decision, the Landlord has not put the utility account in his name and that she has continued paying the utility bill, in the amount of \$177.07 through the day of the hearing.

The Tenant claimed for this amount and to be allowed to reduce future rent in an amount equal to the utility bill.

Analysis

Based on the above testimony and evidence, and on a balance of probabilities, I find as follows:

Only the evidence and testimony relevant to the issues and findings in this matter are described in this Decision.

The Tenant testified and submitted evidence that she has incurred ongoing utility bills in the amount of \$177.07, in violation of the Decision of the previous dispute resolution officer.

Therefore I find that the Tenant has established a monetary claim and under section 67 of the Act, I **direct** the Tenant satisfy the monetary claim of **\$177.07**, by withholding this amount from the next monthly rent payment.

Further I find there has been an ongoing breach by the Landlord since the previous Decision in not putting the utility bill in his name and I grant the Tenant ongoing rent abatement in an amount equal to the utility bill. The Tenant is directed to withhold the amount of each subsequent utility bill, which she testified she receives bi-monthly, from the rent following receipt of any subsequent bill utility bill and attach a copy of the bill to the rent payment.

I also order that the rent abatement continue until such time as the Landlord complies with the previous Decision by putting the utility bill in his name, and files and pays for an Application for Dispute Resolution and proves the utility bill is in his name.

In relation to the Tenant's claim for registered mail, a stop payment and money order fees, I find that the Tenant has chosen to incur costs that cannot be assumed by the Landlord. The dispute resolution process allows an Applicant to claim for compensation or loss as the result of a breach of Act and not for costs incurred at the Applicant's choosing. Therefore, I find that the Tenant may not claim these fees, as they are costs

which are not named, by the *Residential Tenancy Act* and I dismiss her claim for these amounts.

Conclusion

The Tenant is authorized to satisfy the monetary claim by withholding the amount of \$177.07 from the next monthly rent and granted an order for a continuing rent abatement in an amount equal to the utility bill.

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: March 24, 2011.

Residential Tenancy Branch