



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Public Safety and Solicitor General

DECISION

Dispute Codes MNDC, FF

Introduction

This hearing was convened by way of conference call to deal with the tenants' application for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application.

The landlord and both tenants attended the conference call hearing, gave affirmed testimony and were given the opportunity to cross examine each other on their evidence. All information and testimony provided has been reviewed and is considered in this Decision.

Issue(s) to be Decided

Are the tenants entitled to a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

Background and Evidence

This month-to-month tenancy began on September 15, 2008 and the tenants still reside in the rental unit. Rent in the amount of \$800.00 per month is payable in advance on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenants in the amount of \$400.00.

The male tenant testified that when he first rented the unit in 2008 the agreement was that he would pay another tenant living in another house on the same property \$50.00 per month for hydro. The hydro bills are in the other tenant's name. He stated that the hydro amount has increased dramatically since then, and provided copies of hydro bills as follows:

Billing Date	Period	Amount
October 27, 2008	September 19 to October 27, 2008	\$240.87
February 24, 2009	October 28 to February 23, 2009	\$343.99
April 28, 2009	February 24 to April 24, 2009	\$1,367.01
July 27, 2009	Unknown	\$554.58
August 25, 2009	June 24 to August 24, 2009	\$1,335.46
September 18, 2009	June 24 to August 24, 2009	\$455.09
October 26, 2009	August 25 to October 23, 2009	\$448.49
December 29, 2009	October 24 to December 23, 2009	\$586.97
February 25, 2010	December 24, 2009 to February 23, 2010	\$530.56
April 26, 2010	February 24, 2010 to April 23, 2010	\$461.97
June 24, 2010	April 24 to June 23, 2010	\$391.11
August 25, 2010	June 24 to August 24, 2010	\$456.72
October 26, 2010	August 25 to October 25, 2010	\$301.77
December 28, 2010	October 26 to December 23, 2010	\$737.48

The tenant also testified that in late 2009 there was no water in either house. The landlord had repairs done that corrected the situation for his house, but not the other house. A separate line was installed and at that time the landlord discovered there was a break in the line going to that house. The pump runs on electricity, the pump ran continuously due to the break in the line, and the line was fixed in August or September, 2009. Also, both houses are primarily heated with electricity, and his house is about 700 square feet with one bedroom and new windows. The other house on the property is 1400 or 1500 square feet with 5 people living in it. It's also an older house with single pane windows, and the tenants feel that their hydro usage is lower and the payments should also be lower.

He further testified that the tenants agreed that from August, 2009 to February, 2011 he would pay \$100.00 per month to the other tenant and has done so. The tenant asks for an order that the landlord have a separate hydro meter installed so that he can put the hydro in his name and pay his own hydro bills rather than try to figure out the bills.

The landlord testified that she asked BC Hydro to install another meter but they refused because the 2 houses both have the same address.

The landlord further testified that the tenant had agreed to 40% of the hydro, not \$50.00 per month. Further, the tenancy agreement provides that hydro is not included in the rent, and that the tenants are to work it out amongst themselves.

She further testified that in January, 2009 she paid the tenant by way of rent reduction \$300.00. In August, 2009 she further reduced the rent by \$400.00, and in October, 2009 she paid the other tenant \$1,300.00 by way of rent reduction.

The tenant disputed that evidence, stating that the rent reductions that he received from the landlord totalled \$600.00, not \$700.00, and that was for having no water, not for compensation for excess hydro bills. The landlord did not dispute that evidence.

Analysis

In the circumstances, I find that the rent reductions allowed by the landlord were for lack of water, not for excess hydro bills. I further find that the landlord has made an attempt to have another hydro meter installed on the rental house, but was unsuccessful and is not able to make that change to the rental property. I cannot make an order that the landlord subdivide the property so that a separate meter can be installed for the tenant.

I have reviewed the tenancy agreement, and I note that electricity and heat are not included in the rent, but water is. I find that the landlord's evidence that the tenant agreed to 40% is not substantiated in the evidence before me; there is nothing in the tenancy agreement to support that, and the evidence of the tenant is that the tenants have a different agreement. The two tenants have verbally agreed to some amount, but that matter is not before me. The matter before me is whether or not the tenant has established that the tenant is entitled to compensation by the landlord.

In reviewing the hydro bills provided, I agree with the tenant that the hydro has increased dramatically from the beginning of the tenancy. I have examined the bills provided in evidence, and I find that the average billing amount for 2010 from February to October is \$402.89, and the average billing in 2009 for the same period is \$698.40, a difference of almost \$300.00 per billing period. I accept the evidence of the tenant that

the pump ran continuously until the break in the line was identified and repaired in or around September, 2009, which is the responsibility of the landlord, however, the tenant did not pay those bills, but rather paid \$100.00 per month as agreed with the other tenant.

The Residential Tenancy Policy Guideline #1 states that: "A term in a tenancy agreement which requires a tenant to put the electricity, gas or other utility billing in his or her name for premises that the tenant does not occupy, is likely to be found unconscionable as defined in the Regulations. If the tenancy agreement requires one of the tenants to have utilities (such as electricity, gas, water, etc.) in his or her name, and if the other tenants under a different tenancy agreement do not pay their share, the tenant whose name is on the bill, or his or her agent, may claim against the landlord for the other tenants' share of the unpaid utility bills."

In this case, I do not have an application by the tenant in whose name the hydro bills are, nor do I have an application by that tenant to enforce any agreement on how much these tenants should pay. The tenant has, however, testified that the agreement is \$100.00 per month, and nothing has changed with respect to that agreement. If the other tenant wants more than that, it will be up to the tenants in the two residences to reach an agreement. The landlord has a responsibility to ensure that the rental property is maintained in a state of repair that makes the rental property suitable for occupation, which includes the water lines, and the landlord has done so. The tenant has not included an amount of a monetary order in the Tenant's Application for Dispute Resolution, but for an order that the landlord have a separate meter installed, which cannot be done. I find that the agreement of \$100.00 per month has been agreed by the tenants, and the application before me must be dismissed.

Conclusion

For the reasons set out above, the tenants' application is hereby dismissed without leave to reapply.

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: April 7, 2011

Residential Tenancy Branch