



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This conference call hearing was convened in response to the tenant's 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 associated with this application.

Both parties attended the hearing and provided affirmed testimony. They were given a full opportunity to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the tenant entitled to a Monetary Order, and for what amount?

Is the tenant entitled to recover the filing fee?

Background and Evidence

Pursuant to a written tenancy agreement, the tenant occupies the upper level of a single detached home. The basement is occupied by another tenant under a separate tenancy agreement. The applicant tenant testified that utilities are registered in his name for the whole house, and that they are shared equally with the downstairs tenant. He stated however that the downstairs tenant has been making late payments continually, and that her cheques are often returned NSF. The tenant said that he no longer wants to deal with this problem and with the downstairs tenant's arrears.

The landlord testified that she has dealt with the problem by issuing the downstairs tenant with late notices and 10 Day Notices to End Tenancy for unpaid utilities. During the hearing, the parties exchanged views based on their testimony and undertook to achieve a resolution.

Analysis

Section 63 of the *Residential Tenancy Act* provides for the parties to resolve their dispute during the dispute resolution proceedings. Accordingly, the parties have agreed to the following:

- The upstairs tenant is no longer responsible for collecting utilities from the downstairs tenant.
- The downstairs tenant will pay her share of the utilities to the landlord directly.
- The utilities will continue to be registered under the upstairs tenant's name.
- The upstairs tenant will pay the utilities for the full amount.
- The landlord will compensate the upstairs tenant for the downstairs tenant's share of the utilities by cheque no later than the 2nd or 3rd day of each month, except for week-end or statutory holidays, whether or not the downstairs tenant pays her share of the said utilities.
- The landlord is at liberty to enforce the tenancy for the downstairs tenant's failure to pay utilities in the future, or for any other breaches of the Act, Regulation, or tenancy agreement.

Conclusion

Since this matter was resolved informally, I decline to make an order regarding the filing fee.

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: July 05, 2011.

Residential Tenancy Branch