



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD, MNDC, FF

Introduction

This hearing dealt with an application by the landlord seeking a monetary order for unpaid rent and utilities, a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement, and an order to retain the security deposit in partial satisfaction of the claim. Both parties participated in the conference call hearing. Both parties gave affirmed evidence.

Issues to be Decided

Is the landlord entitled to a monetary order for unpaid rent and loss of income?

Is the landlord entitled to retain the security deposit?

Background and Evidence

The tenancy began on or about April 1, 2011 and was to be a fixed term tenancy until March 31, 2012. Rent in the amount of \$955.00 is payable in advance on the first day of each month. At the outset of the tenancy the landlord collected from the tenant a security deposit in the amount of \$477.50 and a pet deposit of \$250.00. The tenant failed to pay rent in the month(s) of July 2011 to October 2011.

The landlord gave the following testimony; that the subject tenant rented the unit along with a roommate that was listed on the tenancy agreement, the subject tenant of this hearing gave only verbal notice sometime in early July that she should would be moving out, on July 30, 2011 she sent an e-mail to the landlord that she was seeking to sublet her room, the landlord was agreeable to have the remaining roommate stay as long as all rent was paid and that he directed new post dated cheques to the landlord but until

that time the original tenancy was to remain in effect, the roommate moved out on September 30, 2011 without ever paying any rent or utilities and feels the subject tenant of this hearing is responsible for the entire amount.

The tenant gave the following testimony; verbally informed the landlord sometime in early July that she was looking to move out, agrees that she never did give written notice but does feel that the e-mail dated on July 30, 2011 advising that she was looking to sublet her room out was sufficient, does accept some limited responsibility for the shortfall in rent but does not agree with what the landlord is seeking.

Analysis

The primary issue in this matter is whether the subject tenant was an actual tenant until September 30, 2011. The tenant provided documentation that clearly shows that the landlord had accepted her roommate as a new tenancy on August 16, 2011. However, what the subject tenant did not provide was any documentation that the landlord accepted her notice in accordance with the Act. The landlord gave testimony that he did not receive the e-mail until early August and thus a month's notice was not given to him. The tenant provided the e-mail dated August 16, 2011 that the landlord no longer considered her to be his tenant. When I explained to the tenant that she was required to give her notice in writing as required under the Act she stated "I never knew I had to do that". The subject tenant is still responsible for the rent for the months of July and August.

The landlord has satisfied me that the subject tenant would be responsible for the rent the months of July and August 2011. The landlord has not satisfied me that the subject tenant was indeed a tenant past August 31, 2011 and decline to consider any further loss of rent in regards to the subject tenant.

The landlord is seeking 25% of unpaid hydro and gas bills as is in the tenancy agreement. The landlord was seeking the amounts of unpaid utilities from April 1, 2011 to October 31, 2011. The landlord's position was that the payments are made on an "equal monthly payment" and that I should take notice of that and award accordingly. I

do not agree with the landlord in this regard. Based on the bills provided by the landlord himself there is no pattern of “equal payments” paid and I base the award on what the landlord provided for this hearing. The landlord is entitled to the following;

25% of hydro bill for July 2011 \$ 274.28 = \$68.57

25% of hydro bill for August 2011 \$207.30 = \$51.83

25% of gas bill for July 2011 \$321.00 = \$80.25

25% of gas bill for August 2011 \$389.01 = \$97.25

In summary, the landlord has been successful in the following claims:

Unpaid rent for July	\$955.00
Unpaid hydro for July	\$ 68.57
Unpaid hydro for August	\$ 51.83
Unpaid gas for July	\$ 80.25
Unpaid gas for August	\$ 97.25
Total:	\$2207.90

As for the monetary order, I find that the landlord has established a claim for \$2207.90 in unpaid rent and utilities. The landlord is also entitled to recovery of the \$50.00 filing fee. I order that the landlord retain the \$477.50 deposit and the \$250.00 pet deposit in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of \$1530.40. This order may be filed in the Small Claims Division of the Provincial Court and enforced as an order of that Court.

Conclusion

The landlord is granted a monetary order for \$1530.40. The landlord may retain the security deposit and pet deposit.

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: January 23, 2012.

Residential Tenancy Branch