



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, FF

Introduction

This matter proceeded by way of a conference call hearing, pursuant to the *Residential Tenancy Act* (the “Act”), and dealt with an Application for Dispute Resolution by the Landlord for a monetary order for damage or loss under the Act, regulation or tenancy agreement, and recovery of the filing fee for the cost of this application. Both parties appeared, gave affirmed testimony and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

During the course of the hearing, the parties reached an agreement to settle the issues raised in the Landlord’s application, except the filing fee for the cost of this application. The details of the settlement agreement are noted below, in the conclusion of this decision.

Issue(s) to be Decided

Should the Tenants be ordered to pay the filing fee?

Background and Evidence

The tenancy began February 15, 2011 and the parties have a written tenancy agreement. The parties agree that the rent is \$1,295.00 per month and it is due on the first of the month. The Tenants still reside in the rental unit.

The Tenants made a prior application for dispute resolution which was heard on September 28, 2011 and resulted in a decision on September 29, 2011. The decision of September 29, 2011 awarded the Tenants a \$200.00 per month rent reduction due to loss of use and enjoyment of the rental unit due to a heating issue. The Tenants were ordered to continue to pay reduced rent of \$1,095.00 per month, until such a time as sufficient repairs were done to the heating system. The decision of September 29, 2011 required the Landlord to apply for dispute resolution once sufficient repairs to the

heating system were done and request an order to have the rent increased to the original amount.

The Tenants stated that heating had been a problem in the rental unit for a long period of time and the only way they were able to reach some resolution of the issue was by applying for dispute resolution. The Tenants stated that they did not request the Landlord to pay their filing fee when they made their application previously. The Tenants agree that the heating is now working, although extensive repairs to the heating system were not done, and they are not certain how long the system will continue to work. The Tenants stated that the Landlord had contractors come and look at the heating system and when the contractor had completed their task the heat came on, as of October 27, 2011. The Tenants stated that they did not resume paying full rent at that time as they were following the directions and orders stated in the decision of September 29, 2011 which required the Landlord to apply for dispute resolution to have the rent restored to \$1,295.00 per month.

The Landlord stated that he had hired contractors to service and fix the heating system issues and as of October 27, 2011 the heat was working properly. The Landlord stated that if the Tenants had resumed paying the full rent, he would not have had to bother with applying for dispute resolution.

Landlord requests that the Tenants pay the outstanding rent and reimburse them for the \$50.00 filing fee for this application.

Analysis

The Tenants do not dispute that the rent can be restored to \$1,295.00 per month effective October 27, 2011, as the heating was working as of that date. The Tenants reasonably followed the instructions of the decision of September 29, 2011 which required the Landlord to come to dispute resolution to receive an order allowing the rent to be restored once there were sufficient repairs to the heating system. I do not find it appropriate to order the Tenants to pay the Landlord for the filing fee for this Application, as the directions regarding filing for dispute resolution came from the previous Dispute Resolution Officer's decision of September 29, 2011. Had the Landlord satisfied the Tenants heating concerns and voluntarily provided a rent reduction earlier in the tenancy neither of these hearings would have been necessary. I dismiss the Landlord's request for the filing fee.

Conclusion

I dismiss the Landlord's request for the filing fee.

The settlement agreement of the Landlord and Tenant in regard to this application is as follows:

1. The Landlord and Tenants agree that the heating issue was resolved satisfactorily and adequate heating was provided to the rental unit as of October 27, 2011.
2. The Tenants agree to pay the Landlord \$25.80, which represents four days pro-rated rent owing for October 2011.
3. The Tenants agree to pay the Landlord \$600.00, which represents \$200.00 per month rent owing for November 2011, December 2011, and January 2012.
4. The Tenants agree to resume paying the Landlord \$1,295.00 per month rent effective February 01, 2012. As a result, I order the Tenants to pay \$1,295.00 per month as of February 01, 2012.
5. The Landlord is entitled to a monetary order for \$625.80 representing the rent amount difference owing from October 27, 2011 to January 31, 2012 inclusive.

I find that the Landlord is entitled to monetary compensation pursuant to section 67 in the amount of **\$625.80** comprised of rent owed. Should the Tenants fail to pay this amount to the Landlord immediately, the Landlord may enforce the order through the Provincial Court.

This order must be served on the Tenants and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: February 07, 2012.

Residential Tenancy Branch