



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: CNR, MNDC

Introduction

This hearing was scheduled in response to the tenant's application to cancel a notice to end tenancy for unpaid rent or utilities / and a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement. Both parties participated in the hearing and gave affirmed testimony.

The tenant testified that subsequent to the filing of her application, she vacated the unit. Accordingly, her application for cancellation of a notice to end tenancy is withdrawn. The matter remaining before me is the tenant's application for a monetary order.

Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

Background and Evidence

There is no written tenancy agreement for this tenancy which began in October 2011. The tenant rented a portion of the main floor of a house which also had renters upstairs (the tenant's sister) and downstairs (three separate sets of renters in total). Monthly rent of \$700.00 was paid directly to the landlord by the Ministry. The tenant agreed that hydro utilities (Fortis) would be put into her name and that she would collect a share of the monthly cost from the upstairs tenant and from the basement tenants. However, the tenant claims that the basement tenants fell behind in their payments. Further, the tenant claims that without notice to her, the landlord entered into an agreement with the basement tenants for payment of a monthly amount comprised of rent and utilities. In the result, the tenant claims she has subsidized the cost of hydro for the basement tenants and is entitled to reimbursement from the landlord.

The landlord served the tenant with a 10 day notice to end tenancy for unpaid rent or utilities dated March 20, 2012. The tenant disputed the notice by filing an application for dispute resolution on March 23, 2012. A copy of the notice was submitted in evidence. The notice documents that rent in the amount of \$900.00 was unpaid when due on March 1, 2012. As previously noted, the tenant vacated the unit towards the end of March 2012.

The tenant seeks to be compensated by the landlord in the amount of \$2,350.00 as follows:

- \$350.00: utilities owing for November 2011
- \$400.00: utilities owing for December 2011
- \$400.00: utilities owing for January 2012
- \$400.00: utilities owing for February 2012
- \$400.00: utilities owing for March 2012
- \$400.00: utilities owing for April 2012

Analysis

Credible documentary evidence related to unpaid hydro is limited, and consists of a statement of account from Fortis with a billing date of March 6, 2012, as well as a notice of disconnection dated March 15, 2012. The statement of account shows that four separate payments were received during January and February 2012, and that there was an outstanding balance in the amount of \$3,452.88. The notice of disconnection advises that the Fortis "account is now beyond our accepted terms of payment."

Based on the documentary evidence and testimony, I find that there is no credible and conclusive documentary evidence in regard to what verbal agreements may have been reached between the tenant and the downstairs renters concerning sharing the cost of hydro. Further, I find that there is no credible and conclusive documentary evidence in regard to what hydro payments may or may not have been made by the downstairs renters to the tenant.

In summary, I find that utilities are not included in the monthly rent, the subject hydro account is in the tenant's name, and there is insufficient evidence to support the tenant's claim that the landlord is obligated to compensate her for any amount of the hydro costs which were either paid or which remain unpaid. Accordingly, the tenant's application is hereby dismissed.

Conclusion

The tenant's application is hereby dismissed.

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 16, 2012.

Residential Tenancy Branch