



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, OLC, RP, RR, FF, O

Introduction

This hearing was convened by way of conference call in repose to the tenants application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; for an Order for the landlord to comply with the *Act*, regulations or tenancy agreement ; for an Order for the landlord to make repairs to the unit, site or property; to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided; and to recover the filing fee from the landlord for the cost of this application.

During the hearing the tenant withdrew her application for an Order for the landlord to comply with the *Act* and to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided. The landlord raised no objections to these sections of the application being withdrawn.

The tenant and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross exam each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for money owed or compensation for damage or loss?
- Is the tenant entitled to an Order for the landlord to make repairs to the unit, site or property?

Background and Evidence

Both parties agree that this tenancy started on September 01, 2011. Rent for this unit is \$800.00 per month and does not include Hydro. Rent is due on the 1st day of each month in advance.

The tenant testifies that she does not have a separate Hydro meter for her unit. The tenant states she did agree at the start of the tenancy to pay her own Hydro usage. The tenant seeks now to recover the Hydro she has paid since the start of her tenancy of \$244.00 because the landlord has four private meters and one BC Hydro meter installed in the fourplex. The tenant states although the landlord has provided her with a copy of the Hydro bill and the breakdown for the other meters the landlords calculations are not accurate and cannot be checked because the landlords system is too complicated and there is no separate meter for the tenants unit to show an accurate reading of the tenants Hydro usage.

The landlord testifies that this is a legal duplex and the Hydro is in the Landlords name. There is one BC Hydro meter that measures all the usage for the landlords and tenants unit along with the usage to the outhouse. The landlord states that his unit and the outhouse have separate convenience meters that measure the usage for these areas. The landlord testifies he reads all three meters and subtracts the usage from the two convenience meters from the BC Hydro meter and the balance is the tenants usage for her unit.

The landlord has provided copies of the BC Hydro bills and the ledgers the landlord keeps of the usage for the three separate areas. This information is given to the tenant

with a copy of the BC Hydro bill. The landlord states the tenant is able to confirm the landlord's readings at any time and the landlord also keeps photographic records of the meter readings which are dated. The tenant is updated every two months with this information.

The landlord testifies that he was very clear about the meters when the tenant moved in so there would be no misunderstanding. The landlord testifies that the tenant said she could not be bothered to read the meters herself as it was bothersome. The landlord testifies that the calculations are accurate for each unit's usage.

The tenant disputes that the landlord informed the tenant at the start of her tenancy about the separate meters.

The tenant testifies that when she moved into the unit the landlord allowed the tenant to use the music studio to practise her saxophone. The tenant states she is a professional musician and is required to practise her instrument. The tenant testifies that the landlord has prevented the tenant's access to the studio since January, 2012 and the tenant now has to practise her saxophone in her unit. The tenant testifies that there was an incident when the landlord came and knocked on the tenant's door and asked the tenant to stop playing her saxophone in her unit. The tenant testifies that she purchased a decibel reader and the saxophone does not go over 70 decibels. The tenant testifies that she only plays the saxophone in school hours and occasional around 5.00 p.m. The tenant seeks to recover compensation from the landlord of \$100.00 per month for six months because the tenant claims the landlord has impeded the tenant's ability to work by not allowing the tenant the use of the studio and preventing the tenant playing her saxophone in her unit.

The landlord testifies that the music studio was not part of the tenancy agreement in place with the tenant. The landlord testifies he did allow the tenant to use the studio as he did make it available to others at an additional cost and the tenant was able to use it occasionally. However, the tenant would not adhere to the schedules set up for the use

of the studio and would leave her instruments and sheet music out which impeded other users use of the space. The landlord testifies that when he spoke to the tenant about this the tenant became stressed and said the rules for the use of the studio were unreasonable. The tenant would not clean the studio after her usage and would rehearse with 'combos' in the studio. The landlord also testifies that the tenant paid no money towards the heat and hydro for the studio and would leave the heat and lights on when she left the studio. Eventually the landlord testifies he withdrew the privilege from the tenant and changed the locks.

The landlord testifies that there was an incident while the tenant still had use of the studio when the tenant was playing her saxophone in her unit. The landlord testifies he did go to the tenants unit around 5.00 p.m. one day because the agreement at that time was that the tenant did not play the saxophone in her unit. The landlord states he does not have an issue at this time with the tenant playing her saxophone in her own unit as long as she does so within the allowable times and the volume is reasonable.

The tenant seeks an Order for the landlord to make repairs to her unit with regard to fitting a separate meter for Hydro in her unit.

The tenant also seeks to recover her \$50.00 filing fee for this proceeding.

Analysis

With regard to the tenants application for compensation of \$244.00; I find the Hydro meters fitted in the building are meters which the landlord is entitled to use. I further find the tenant has presented no evidence to show that the landlords meter readings are inaccurate concerning the subtraction of the readings on the two convenience meters from the BC Hydro meter giving a reading for the tenants unit. I strongly suggest to the tenant that if the tenant feels these readings are not accurate that the tenant is available to take these readings with the landlord when he reads the meters and the tenant does her own calculations. Consequently, this section of the tenant's application is dismissed.

With regard to the tenants application for compensation for the loss of the use of the studio and for a loss of quiet enjoyment of her rental unit to allow her to carry out her work; I have considered both arguments in this matter and find the studio was never part of the tenancy agreement and was offered to the tenant on a good will basis. The landlord is therefore entitled to withdraw this good will without any penalty. The tenant also argues that the landlord is impeding her ability to work by placing restrictions on her ability to play her saxophone. I find from the sworn testimony before me that the landlord has agreed the tenant can practise her saxophone in her own unit as long as the tenant's music complies with the tenancy agreement and is not played during the quiet time between 10.00 p.m. and 9.00 a.m. and the tenant keeps the volume to a reasonable level. The tenant has stated that there was only one occasion when the landlord came to the tenants unit about her saxophone practise and the landlord argues that this was during the time frame when the tenant was allowed to use the studio to practise. Consequently, I find the landlord has not impeded the tenant's ability to work and practise her instrument and the tenant's application for compensation is dismissed.

With regard to the tenants claim for the landlord to fit a Hydro meter to the tenants unit. There is no provision under the *Act* for me to Order the landlord to change the Hydro meter to the building or to fit a separate meter to the tenants unit. I find the landlords calculations to be consistent with the usage for the separate units and as such I find the tenant's application has no merit in seeking an Order for the landlord to make repairs to the unit, site or property in regard to the installation of a separate Hydro meter. Consequently this section of the tenants claim is dismissed.

As the tenant has been unsuccessful with her claim I find the tenant must bear the cost of filing her own application.

Conclusion

The tenant's application is hereby dismissed in its entirety 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: May 23, 2012.

Residential Tenancy Branch