



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNSD

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order for unpaid utilities and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

The parties agree the tenant has vacated the rental unit. Therefore, an order of possession is not required.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid rent?
Is the landlord entitled to keep all or part of the security deposit?

Background and Evidence

The tenancy began in 2007. Rent in the amount of \$750.00 and utilities in the amount of \$200.00 was payable on the first of each month. A security deposit of \$425.00 was paid by the tenant.

On April 4, 2012, the tenant's application to cancel a two month notice to end tenancy for landlord use was dismissed and the tenancy was ended in accordance with the Act on April 30, 2012.

The landlord testified the tenant did not pay rent for April 2012. The landlord states the tenant was entitled to that compensation as the tenancy was ended for landlord use of property. However, the tenant did not pay \$200.00 for utilities as required.

The tenant testified that rent is \$950.00 per month and that includes utilities.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The evidence of the landlord was the tenant did not pay utilities for the month of April 2012.

The evidence of the tenant was utilities were included in rent as she pays \$950.00 per month.

Section 51 (1) of the Act states a tenant who receives a notice to end a tenancy under section 49 [*landlord's use of property*] is entitled to receive from the landlord on or before the effective date of the landlord's notice an amount that is the equivalent of one month's rent payable under the tenancy agreement.

In this case, the tenant pays \$950.00 per month to the landlord, however, \$750.00 is designated rent and \$200.00 is designated utilities. Under Section 51 of the Act the tenant received the equivalent of one month's rent from the landlord. However, section 51 of the Act does not allow compensation for utilities. Therefore, the tenant was required to pay \$200.00 for utilities for the month of April 2012.

I find that the landlord has established a total monetary claim of \$250.00 comprised of unpaid utilities and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain \$250.00 from the security deposit and the balance of the tenant's security deposit is to be returned within 15 days of today's date.

Therefore, I grant the tenant a monetary order for the balance due, should the landlord fail to return the balance due of \$175.00.

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

Conclusion

The tenant is granted a monetary order for the balance due.

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 02, 2012.

Residential Tenancy Branch