



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OPR, MNR, MNSD, FF

Introduction

This hearing was convened in response to applications by the tenant and the landlord.

The tenants' application is seeking orders as follows:

1. Cancel a notice to end tenancy; and
2. Recover the cost of filing the application.

The landlord's application is seeking orders as follows:

1. An order of possession for unpaid utilities;
2. A monetary order for unpaid utilities; and
3. Recover the cost of filing the application.

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.

Preliminary Issue

The parties agreed the tenants move out of the rental unit on June 30, 2012 and an order of possession is no longer required. As a result, the tenants' application to cancel a notice to end tenancy has no merit as tenancy has ended in accordance with the Act. Therefore, I dismiss the tenants' application. The tenants are not entitled to recover the cost of filing the application from the landlord.

Issue(s) to be Decided

Is the landlord entitled to a monetary order?
Is the landlord entitled to retain the security deposit in partial satisfaction of the claim?
Is the landlord entitled to recover the cost of the filing fee?

Background and Evidence

The tenants agreed the landlord is owed \$1,220.60 for unpaid utilities for the billing period of April 1, 2011, to March 31, 2012.

The landlord stated there is still one final utility bill that he has not received for the billing period of April 1, 2012 to June 30, 2012 and this bill is not included in the application filed for today's hearing.

Analysis

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

The tenant agreed the landlord is owed \$1,220.60 in unpaid utilities. Therefore, I find the landlord is entitled to compensation for the unpaid utilities for the billing period of April 1, 2011 to March 31, 2012, in the amount of \$1,220.60.

I find that the landlord has established a total monetary claim of \$1,270.60 comprised of unpaid utilities and the \$50.00 fee paid by the landlord for this application.

I order that the landlord retain the sum of \$1,270.60 from the security deposit of \$1,587.50 paid by the tenants in full satisfaction of the claim.

The landlord must comply with section 38 of the Act with the balance of the tenants' security deposit of \$316.90 currently held in trust.

The landlord is at liberty to apply for the April 1, 2012 to June 30, 2012, outstanding utility bill. The landlord is at liberty to apply for any damages to the rental unit.

Conclusion

The tenant's application is dismissed.

I grant the landlord a monetary order and may keep a portion of the security deposit in full satisfaction of the claim.

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: July 10, 2012.

Residential Tenancy Branch