



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

MNDC, MNR, MND, FF

Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for money owed or compensation for damage or loss; for a monetary Order for unpaid rent or utilities; for a monetary Order for damage; to keep all or part of the security deposit; and to recover the fee for filing this Application for Dispute Resolution.

The male Landlord stated that on May 11, 2012 numerous documents, the Application for Dispute Resolution, and the Notice of Hearing were sent to the Tenant, via registered mail. To the forwarding address she provided at the end of the tenancy. The Landlord submitted Canada Post Documentation that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Act*, however the Tenant did not appear at the hearing.

Issue(s) to be Decided

The issues to be decided are whether the Landlord is entitled to compensation for unpaid utilities; to compensation for damage to the rental unit; and to recover the filing fee for the cost of this Application for Dispute Resolution.

Background and Evidence

The Landlord submitted a copy of a tenancy agreement that shows the parties entered into a tenancy agreement that began on April 01, 2011; that the Tenant was obligated to fill the oil tank at the end of the tenancy; and that the Tenant was obligated to pay for utilities incurred during the tenancy.

The male Landlord stated that he inspected the oil tank on February 26, 2012 and determined that it was not full; that he inspected it again on February 29, 2012 and determined that it was full; and that prior to a new tenant moving into the rental unit he determined that the oil furnace was not working.

The Landlord submitted an invoice from a heating and cooling company which indicates that a technician inspected the oil tank on March 21, 2012 and determined that there

was over 100 litres of water in the tank; that water was removed from the tank and repairs were completed; and that the Landlord was charged \$370.16.

The Landlord stated that the furnace continued to malfunction after this repair and the same service company completed additional repairs. The Landlord submitted an invoice from the heating and cooling company which indicates that additional repairs were completed on March 23, 2012 and that the Landlord was charged \$120.40.

The Landlord submitted a receipt to show that the oil tank was filled on March 22, 2012, at a cost of \$735.82.

The Landlord contends that the Tenant added water to the oil tank prior to the end of the tenancy. The Landlord is seeking compensation, in the amount of \$490.56, for repairs to the tank/furnace and \$735.82 for filling the oil tank.

In support of the contention that the Tenant added water to the oil tank the Landlord submitted a letter from an employee of the oil company, who declared that on February 22, 2012 the Tenant requested that the oil tank at the rental unit be filled; that on February 28, 2012 amended the order to have \$450.00 worth of oil delivered; and that \$460.00 of oil was delivered.

In support of the contention that the Tenant added water to the oil tank the Landlord submitted a letter from another occupant in the residential complex in which the occupant declared that he/she loaned the Tenant a garden hose on the evening of February 28, 2012.

The Landlord is seeking compensation, in the amount of \$250.00, for the two hours he spent removing water from the oil tank, for the three hours he spent facilitating the repairs to the furnace; and time travelling to the rental unit from his home in another community. The Landlord is also seeking compensation, in the amount of \$41.80, for travel costs incurred when he had to travel from his home on Thetis Island to coordinate repairs.

The Landlord is seeking compensation, in the amount of \$61.35, for hydro costs incurred during the last fifteen days of the tenancy. The Landlord stated that the Tenant was obligated to pay .74386 of the hydro charges, which is calculated on the basis of the square footage of the rental unit. The Landlord submitted a hydro receipt for the billing period of February 14, 2012 to April 12, 2012. The Landlord contends that the pro-rated portion of the Tenant's bill is \$61.35.

Analysis

On the basis of the information provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant was obligated to fill the oil tank at the end

of the tenancy and that the Tenant, or someone acting on behalf of the Tenant, added water to the oil tank.

In determining that the Tenant added water to the oil tank I was influenced by the following:

- No other reasonable explanation for why water was found in the tank was presented
- There is no evidence that the Tenant reported a problem with the furnace to the Landlord prior to the end of the tenancy, which causes me to conclude that the furnace was functioning properly during the tenancy and, therefore, it is reasonable to conclude that there was no water in the tank prior to the end of the tenancy
- The declaration from the occupant who loaned the Tenant a garden hose on the evening, which lends credibility to the argument that the Tenant added water to the tank, as no other explanation for the loan of the hose has been offered
- The declaration from the employee of the oil company causes me to conclude that the Tenant changed her mind about filling the oil tank, which would provides her with motive to top up the tank with water
- The fact that the Tenant did not attend the hearing to deny the allegation that the Tenant, or a person acting on behalf of the Tenant, added water to the tank.

I find that the Tenant failed to comply with section 37(2) of the *Act* when she failed to the damage that resulted from adding water to the oil tank, which in these circumstances is \$490.56 for the cost of professional repairs. I also find that the Landlord is entitled to compensation, at a rate of \$25.00 per hour, for the five hours he spent repairing or facilitating repairs to the rental unit. I also find that she is obligated to pay for the cost of filling the oil tank, which included replacing any oil that was lost when water was drained from the tank, which amounts to \$735.82.

On the basis of the information provided by the Landlord and in the absence of evidence to the contrary, I find that the Tenant is obligated to pay a pro-rated portion of the hydro bill that was submitted in evidence. I find that the Landlord has accurately calculated the pro-rated portion of the bill and I accept that the Tenant owes \$61.35 for hydro.

I dismiss the Landlord's claim for compensation for travel costs, including the time he spent travelling, as the Tenant should not, in my view, be obligated to absorb costs associated to the Landlord's decision to operate a business from a remote location.

I find that the Landlord's application has merit, and I find that the Landlord is entitled to recover the filing fee from the Tenant for the cost of this Application for Dispute Resolution.

Conclusion

I find that the Landlord has established a monetary claim, in the amount of \$1,462.73, which is comprised of \$797.17 in unpaid utilities, \$615.56 in damages, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. Based on these determinations I grant the Landlord a monetary Order for the amount \$1,462.73. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: July 04, 2012.

Residential Tenancy Branch