



Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

Landlord: MNR, MNDC and FF
Tenant: CNR

Introduction

This hearing addresses applications by both the landlord and the tenant.

The landlords' application of March 13, 2013 sought a monetary award for unpaid utilities and return of \$300 given to the tenant to purchase curtains but not applied to that purpose. The landlord also sought to recover the filing fee for this proceeding.

The tenant's application of March 12, 2013 sought to have set aside a 10-day Notice to End Tenancy for unpaid rent dated March 4, 2013.

As a matter of note, this tenancy was the subject of a hearing on March 11, 2013 in which, by settlement agreement, the parties were to end the tenancy on March 31, 2013, supported by an Order of Possession. There was to be no charge for March 2013 rent, and the landlord was to pay the tenant \$300, supported by a Monetary Order, for repairs she had performed on the rental unit.

Therefore, the tenant's application is dismissed as moot.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for unpaid utilities and return of \$300 given to the tenant to purchase drapes?

Background and Evidence

This tenancy began on or about December 1, 2012 and ended on about March 31, 2013. Rent was \$1,500 per month and the landlord holds a security deposit of \$500.

During the hearing, the landlord submitted an updated claim for unpaid utilities totalling \$1,527.22 for the full four months of the tenancy.

While the parties had agreed verbally to the terms of the tenancy in November 2012, the tenant stated that she was not presented with a copy of the rental agreement for signature until January 2, 2013. The tenant stated that she declined to sign the agreement as she believed it varied on some of the terms agreed to verbally.

One of the terms in dispute required the tenant to pay all utilities. The tenant contested the term as there was a large barn on the property on the same hydro and gas meters as the house, there had been work using power tools in the barn and the house during the tenancy, the sump pump had been running constantly, workers had been in and out of the house, etc.

The landlord estimated that the barn use of hydro would have been less than \$40 per month and had reduced his claim by that amount. He stated that the tenant had agreed to pay a reasonable share of utilities and that he had found the heat had been turned up very high when he was working in the house.

The landlord further claims that the tenant was given \$300 to purchase window coverings which the tenant stated she had not received.

Analysis

In the absence of a signed rental agreement, I have no way to be certain of the agreement between the parties. Taking into account some usage of power in the barn which included a hot water heater and the unusual situation with the sump pump and ongoing repairs to the house, I am confident that the tenant is responsible for at least half of the utilities bills and award the landlord \$800 on the claim.

As to the claim for return of the \$300 paid to the tenant to purchase drapes which was not used for the purpose, I note that the tenant's evidence includes an email dated January 2, 2013 in which the landlord states that the rental agreement and \$300 will be delivered shortly. The email also asks the tenant to provide a receipt when she has picked up them up. I accept the evidence of the landlord that the \$300 was paid and that the tenant never did make the purchase or provide a receipt. I find that the landlord is entitled to return of the \$300.

Having found merit in the landlord's application, I find that he is entitled to recover his \$50 filing fee for this proceeding from the tenant.

As authorized by section 72 of the *Act*, I hereby order the landlord to retain the tenant's security deposit in set off against the balance owed.

Thus, I find that the tenant owes to the landlord and amount calculated as follows:

Estimated tenant's share of unpaid utilities	\$ 800.00
To return unused window covering allowance	300.00
Filing fee	50.00
Sub total	\$1,150.00
Less retained security deposit	- 500.00
TOTAL	\$ 650.00

Conclusion

In addition to authorization to retain the tenant's security deposit in set off against the balance owed, the landlord's copy of this decision is accompanied by a Monetary Order, enforceable through the Provincial Court of British Columbia for \$650 for service on the tenant.

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 09, 2013

Residential Tenancy Branch