



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

REVIEW HEARING DECISION

Dispute Codes:

MNR, FF

Introduction

On November 20, 2012 the Landlord filed an Application for Dispute Resolution, which was scheduled to be heard on February 25, 2013. On February 25, 2013 an Arbitrator dismissed the Landlord's Application for Dispute Resolution without leave to reapply, as the Tenants attended that hearing but the Landlord did not.

On March 01, 2013 the Landlord filed an Application for Review Consideration of the initial decision, dated February 25, 2013. On March 11, 2013 another Arbitrator determined that the Landlord is entitled to a new hearing.

The hearing on April 10, 2013 was convened to consider the merits of the Landlord's Application for Dispute Resolution in which the Landlord applied for a monetary Order for unpaid rent and utilities, and to recover the fee for filing an Application for Dispute Resolution.

The Landlord and the male Tenant were represented at the review hearing on April 10, 2013. The parties agree that the Landlord personally served the male Tenant with the Notice of Reconvened Hearing on March 25, 2013. The Landlord stated that she personally served the Notice of Review Hearing to the male Tenant because she was aware the Residential Tenancy Branch did not have a proper mailing address for him.

The Landlord stated that she did not serve the female Tenant with the Notice of Review Hearing because she believed that it would be mailed to her by the Residential Tenancy Branch.

The Landlord was given the opportunity to either request an adjournment or to proceed with the Application for Dispute Resolution, with the understanding that I would not be able to grant a monetary Order that names the female Tenant if we proceed with this matter today. The Landlord requested an adjournment.

The Tenant did not oppose the request for an adjournment, as he would like time to submit evidence in this matter. The Tenant did not subsequently serve evidence in this matter.

As the adjournment benefits both the Landlord and the male Tenant, and the need for an adjournment appears to have arisen from an honest misunderstanding on the part of the Landlord, I find that it is reasonable to adjourn this matter.

The Landlord stated that she mailed the Notice of Adjourned Hearing to the female Tenant to the service address on the Application for Dispute Resolution, via registered mail, on April 30, 2013. The Landlord cited a Canada Post tracking number that corroborates this statement.

The male Tenant stated that he spoke with the female Tenant yesterday, at which time she advised him that she did not receive the Notice of Adjourned Hearing by registered mail.

On the basis of the information provided by the Landlord, I am satisfied that the female Tenant was served with the Notice of Adjourned Hearing in accordance with section 89(1)(c) of the *Act*. I have placed little weight on the male Tenant's testimony that the female Tenant told him she did not receive this document, as that testimony is subject to the frailties of hearsay evidence. Specifically, I find that it does not assist me in determining whether the female Tenant did not receive the Notice of Adjourned Hearing because she did not receive notification that she had registered mail or because she elected not to pick up the registered mail. As the female Tenant was served with the Notice of Adjourned Hearing in accordance with section 89(1)(c) of the *Act*, this hearing proceeded in her absence.

The Landlord and the male Tenant were represented at the hearing on May 27, 2013. They were provided with the opportunity to present relevant oral evidence, to ask relevant questions, and to make relevant submissions to me.

Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid rent and/or utilities?

Background and Evidence

The Landlord and the male Tenant agree that this tenancy began on August 01, 2008 and that the male and female Tenant were named as co-tenants on the tenancy agreement, which had been signed by both Tenants. The parties agree that the Tenants were required to pay monthly rent of \$1,500.00 by the first day of each month and that they were required to pay 50% of the hydro and water bills for the residential complex.

The Landlord and the male Tenant agree that the male Tenant verbally informed the Landlord that he was vacating the rental unit; that he never ended the tenancy in writing; that he moved out of the rental unit on April 23, 2013; and that he paid the rent for May of 2013.

The Landlord stated that on June 10, 2013 she served the female Tenant with a Ten Day Notice to End Tenancy, which declared that the rental unit must be vacated by June 10, 2013. The male Tenant stated that he does not know whether or not a Notice to End Tenancy was served to the female Tenant.

The Landlord stated that the rental unit was vacated on June 30, 2013 and that rent was not paid for June of 2013. The male Tenant stated that he does not know when the female Tenant vacated the rental unit or whether rent was paid for June.

The Landlord stated that the Tenants currently owe \$752.42 for hydro and water. Hydro or water bills were not submitted to corroborate this claim. The male Tenant stated that he believes the Tenants currently owe \$293.00 for utilities.

Analysis

On the basis of the undisputed evidence, I find that the Tenants jointly entered into a tenancy agreement with the Landlord. As co-tenants, I find that the male Tenant and the female Tenant are jointly and severally liable for any debts or damages relating to this tenancy, which means that the Landlord can recover the full amount of rent or utilities from either Tenant.

I accept that the male Tenant verbally informed the Landlord that he was moving out of the rental unit and that he did move out of the rental unit on April 23, 2013. As a verbal notice is not a legal method of ending a tenancy, I find that this verbal notice did not serve to end this tenancy. On the basis of the undisputed evidence, I find that the Landlord ended this tenancy by serving a Ten Day Notice to End Tenancy on June 10, 2013.

On the basis of the undisputed evidence, I find that this rental unit was occupied until June 30, 2013 and that the Tenants must, therefore, pay rent of \$1,500.00 for this month. As the Tenants are jointly and severally liable for the rent, I find that they are equally liable to pay rent for the month of June, even though the male Tenant did not reside in the rental unit in that month.

On the basis of the undisputed evidence, I find that the Tenants were obligated to pay 50% of the hydro and water bills incurred during the tenancy. As the male Tenant acknowledged that the Tenants currently owe \$293.00 for utilities, I find that they must pay this amount to the Landlord.

I find that the Landlord has submitted insufficient evidence to show that the Tenants owe more than \$293.00 for utilities. In reaching this conclusion I was heavily influenced

by the absence of documentary evidence, such as copies of outstanding utility bills, which corroborate the claim that the Tenants owe \$752.42 for utilities. I therefore dismiss the Landlord's claim for utility charges in excess of \$293.00.

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

Conclusion

The Landlord has established a monetary claim, in the amount of \$1,843.00, which is comprised of \$1,500.00 in unpaid rent, \$293.00 for utilities, and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution, and I grant the Landlord a monetary Order for this amount. In the event that the Tenants do not comply with this Order, it may be served on the Tenants, 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: May 27, 2013

Residential Tenancy Branch