



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OPR, MNR, MNDC, MNSD, FF

Introduction:

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

The Landlord stated that he personally served each Respondent with copies of the Application for Dispute Resolution and Notice of Hearing on August 02, 2013. In the absence of evidence to the contrary, I accept that these documents were served to the Respondents in accordance with section 89 of the *Residential Tenancy Act (Act)*, however neither Respondent appeared at the hearing.

The Landlord submitted documents to the Residential Tenancy Branch. The Landlord stated that he personally served each Respondent with copies of these documents on August 06, 2013. In the absence of evidence to the contrary, I accept that these documents were served to the Respondents and they were accepted as evidence for these proceedings.

The Landlord stated that he submitted copies of hydro and gas bills to the Residential Tenancy Branch prior to this hearing, copies of which were also served to the Tenant on August 06, 2013. Although I did not have copies of those bills before me at the time of the hearing, I accept that they were submitted to the Residential Tenancy Branch, as documents are occasionally misplaced by the Branch. The Landlord was directed to resubmit those documents by August 15, 2013 and that my decision would be rendered upon receipt of the missing documents.

The Landlord faxed copies of 4 hydro bills and 8 gas bills to the Residential Tenancy Branch on August 16, 2013. The Landlord also faxed a one page, hand-written document in which the amounts of the bills are listed; the billing date of the bills are listed; and the due date of the bills are listed. During the hearing the Landlord made no reference to being in possession of this summary and I find it highly unlikely that he was

in possession of the summary at the time of the hearing, as he had significant difficulty stating the billing date and due dates of the bills we discussed. It was obvious to me that the difficulty discussing these dates were related more to a lack of organization rather than the language barrier we were experiencing. As the Landlord made no reference to this document during the hearing, I am not satisfied that it was submitted to the Residential Tenancy Branch prior to these proceedings or that it was served to the Tenant as evidence for these proceedings. I therefore exclude this document from evidence.

Issue(s) to be Decided:

Is the Landlord entitled to an Order of Possession; to a monetary Order for unpaid rent and utilities; and to keep all or part of the security deposit?

Background and Evidence:

The Landlord stated that this tenancy began on May 15, 2012; that the Tenant is required to pay monthly rent of \$1,100.00 by the fifteenth day of each month; that the Tenant paid a security deposit of \$550.00; that the Tenant did not pay the rent that was due on May 15, 2013; that the Tenant did not pay the rent that was due on June 15, 2013; and that the Tenant did not pay the rent that was due on July 15, 2013.

The Landlord stated that on July 16, 2013 he posted a Ten Day Notice to End Tenancy for Unpaid Rent and Utilities on the door of the rental unit, a copy of which was submitted in evidence. The Notice to End Tenancy did not declare how much rent and/or utilities were due nor did it declare the date when the Tenant must vacate the rental unit.

The Landlord stated that the Tenant was obligated to pay 60% of the hydro and gas charges incurred during the hearing. At the hearing the Landlord stated that he has hydro bills dated April 16, 2013, February 13, 2013, and December 12, 2012, which total \$1,168.04. This testimony is corroborated by the hydro bills that were submitted to the Residential Tenancy Branch on August 16, 2013. I note that there are some minor discrepancies on the dates of the bills versus the dates provided at the hearing, however I am satisfied that the charges were incurred during the tenancy and that they were the bills discussed at the hearing. The Landlord stated that the Tenant has not paid the Tenant's portion of these bills.

At the hearing the Landlord stated that he has gas bills dated December 12, 2012, January 16, 2013, February 13, 2013, March 04, 2013, April 12, 2013, and May 10, 2013, which total \$1,243.14. This testimony is corroborated by the hydro bills that were submitted to the Residential Tenancy Branch on August 16, 2013. I note that there are some minor discrepancies on the dates of the bills versus the dates provided at the hearing, however I am satisfied that the charges were incurred during the tenancy and that they were the bills discussed at the hearing. The Landlord stated that the Tenant has not paid the Tenant's portion of these bills.

At the hearing the Landlord made no reference to a hydro bill for \$133.37, dated June 14, 2013, although a copy of this bill was submitted to the Residential Tenancy Branch on August 16, 2013.

At the hearing the Landlord stated that he has a gas bill dated June 12, 2013, in the amount of \$108.89. He stated that the Tenant has not paid the Tenant's portion of this bill. On August 16, 2013 the Landlord submitted a gas bill dated June 11, 2013, in the amount of \$68.28. I am satisfied that this was the bill referred to at the hearing and that the discrepancy between the information provided at the hearing and the information on the bill can be attributed to a language barrier we were experiencing.

Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that requires the Tenant to pay monthly rent of \$1,100.00 by the fifteenth day of each month and that the Tenant did not pay the rent that was due on May 15, 2013, June 15, 2013, or July 15, 2013. As the Tenant is required to pay rent pursuant to section 26(1) of the *Act*, I find that the Tenant must pay \$3,300.00 in outstanding rent to the Landlord.

Section 46(1) of the *Act* stipulates that a landlord may end a tenancy if rent is unpaid on any day after the rent is due by giving a notice to end tenancy. On the basis of the undisputed evidence, I find that a Notice to End Tenancy, served pursuant to section 46 of the *Act*, was posted on the door of the rental unit on July 16, 2013.

Section 46(2) of the *Act* stipulates that a notice to end tenancy served under this section must comply with section 52 of the *Act*. Section 52(c) of the *Act* stipulates that to be effective a notice to end tenancy must state the effective date of the Notice to End Tenancy. In these circumstances the Notice to End Tenancy that was posted on July 16, 2013 did not declare the effective date of the Notice. I therefore find that the Notice was not effective and I dismiss the Landlord's application for an Order of Possession.

On the basis of the undisputed evidence, I find that the Tenant was obligated to pay 60% of the hydro charges that were incurred during the tenancy bills and that the Tenant has not paid the Tenant's portion of the hydro bills discussed during the hearing, which total \$1,168.04. I therefore find that the Tenant owes the Landlord \$700.82 in unpaid hydro charges.

On the basis of the undisputed evidence, I find that the Tenant was obligated to pay 60% of the gas bills that were incurred during this tenancy and that the Tenant has not paid the Tenant's portion of the 7 gas bills discussed during the hearing, which total \$1,311.41. I therefore find that the Tenant owes the Landlord \$786.85 in unpaid gas charges.

I find that the Landlord has submitted insufficient evidence to show that the Tenant did not pay the Tenant's portion of the hydro bill for \$133.37, dated June 14, 2013, which was submitted to the Residential Tenancy Branch on August 16, 2013. In reaching this conclusion I was heavily influenced by the fact that the Landlord made no reference at the hearing to this hydro bill and he did not, therefore, state whether or not the Tenant has paid a portion of this bill. For this reason, I decline to award compensation for this bill.

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

Conclusion

The Landlord has established a monetary claim, in the amount of \$4,837.67, which is comprised of \$3,300.00 in unpaid rent, \$1,487.67 in unpaid 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 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.

In the event that any portion of this monetary Order remains unpaid at the end of the tenancy, the Landlord has the right to retain all or part of the security deposit to satisfy the unpaid portion of this Order, pursuant to section 38(3) of the *Act*.

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: August 16, 2013

Residential Tenancy Branch

