



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with the Landlord's Application for Dispute Resolution, seeking a monetary order for unpaid utilities at the rental unit, and to recover the filing fee for the Application.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided 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.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the Landlord entitled to monetary compensation for unpaid water bills?

Background and Evidence

This tenancy began in December of 2011, with the parties entering into a written, fixed term one year tenancy agreement. Following this initial term the tenancy reverted to month to month. The rent was \$1,500.00 at the outset and the Tenant paid a security deposit of \$650.00 and pet damage deposit of \$300.00.

The parties entered a second, fixed term agreement for a six month period and the rent was reduced to \$1,300.00 in this agreement, and the agreement was to expire on August 1, 2013. The tenancy ended early, by consent of the parties. The Tenant vacated the rental unit on or about May 15, 2013. Both the deposits were accepted as payments toward rent due by the Landlord at the end of the tenancy.

In both tenancy agreements the Tenant is required to pay for water usage.

The Landlord is claiming \$350.96 for unpaid water bills in 2012, and for \$217.90 for unpaid water bills in 2013, for a total claim of \$568.86.

The Landlord testified he paid the water bill for 2012, in January of 2013, as he did not want to have the debt added to the property taxes for the rental unit property.

The Tenant testified that she disputed the water bill owed because there was a water leak at the rental unit and she did not feel she should pay for the wasted water. The Tenant testified she told the Landlord numerous times over six months that the toilet was leaking or running. The Tenant did not put any complaints in writing. The Tenant did recall that on November 22, 2012 she told the Landlord about this.

The Tenant testified there was also a burst pipe on the rental unit property at one time, although the Tenant did not recall when this occurred. According to the Tenant the leaky or running toilet was not repaired until sometime in December of 2012. The Tenant testified that the amount she normally paid to the Landlord was \$32.00 "*a month*" toward her portion of the water bill. The Tenant said she would agree to pay the Landlord \$128.00 for water used in 2013.

The Landlord testified that he repaired the problem with the running toilet as soon as he was notified of this by the Tenant, but the Landlord alleges the Tenant did not report the running water for over 30 days. The Landlord testified at one point they had discussed the water bill for the Tenant being around \$32.00 every "*two months*" but that was just an estimated number. The Landlord testified that the Tenant used far more water than this.

Aside from the water issue, the Tenant had disputed the electrical bill for the rental unit alleging she had paid too much and during the hearing wanted to have a set off of what she would owe the Landlord for water. I explained to the Tenant that she did not submit any evidence on the issue of hydro. I also explained that in any event, she should have filed her own Application if she wanted to make a claim against the Landlord to set off the amounts in dispute as this issue was not properly put before me, and the Landlord had no notice the issue would be raised against him in this hearing, as the principles of natural justice require that a person be informed and given particulars of the claim against them. This is done through filing an Application.

Analysis

Based on the above, the evidence and testimony, and on a balance of probabilities, I find that the Tenant has breached the tenancy agreement and the Act by failing to pay the water bill to the Landlord.

In this situation the parties have a dispute over what amount the Tenant should pay to the Landlord for the water used in 2013, although neither one disputed the amount owed for 2012.

I find there were vague terms discussed by the parties about the amount owed but no agreement of the minds occurred which might be considered a binding contract.

I accept the undisputed testimony of the Tenant that there was a burst pipe at one point, and I accept the testimony of the Landlord that this was repaired quickly.

I accept the testimony of both parties that a toilet was running and water usage would have increased somewhat; however, neither party had sufficient evidence to prove what portion of the water bill was attributable to leakage as compared to real usage, or to prove the duration of leakage caused by the toilet running. It appeared to me the Landlord was saying he fixed it in a day or two and the Tenant was of the position it took nearly a month.

Based on the above estimates from the parties, which I acknowledge are vague at best, I find that splitting the different between the two positions will result in as fair an outcome as can be expected given the paucity of evidence, and I order a reduction in the water bill for 2013 by 15 days.

The bill for the 56 days between January 19 and March 15, 2013, was for \$32.36. I calculate this to be a daily rate of \$0.58, resulting in a discount of \$8.70 for the 15 days ($\$32.36 \div 56 = \0.58). I reduce the claimed amount of \$568.86 by \$8.70, with the balance being \$560.16.

Therefore I order the Tenant to pay the Landlord the sum of **\$610.16**, comprised of \$560.16 for water usage at the rental unit and the \$50.00 filing fee for the Application.

I grant and issue the Landlord a monetary order in these terms, which must be served on the Tenant, and is enforceable in Provincial Court.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: November 27, 2013

Residential Tenancy Branch

