



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, RR, FF

Introduction

This hearing dealt with applications by both the landlords and the tenant. The landlord applied for a monetary order for unpaid utilities and for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement; to keep all or part of the security deposit; and to recover the RTB filing fee. The tenant applied for money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement in the form of retroactive reductions in the amount of utilities payable; for the return of his security deposit; and to recover the RTB filing fee.

Both the landlord and tenant attended the teleconference hearing and gave affirmed evidence.

Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid utilities?

Is the tenant entitled to retroactive reductions in the amounts of utilities payable?

Given the outcome of the first two issues, who is entitled to what amount of the security deposit?

Background and Evidence

The tenancy agreement signed by the parties on July 25, 2010 indicates the tenancy started July 15, 2010 and the tenant was obligated to pay rent of \$1,900.00 monthly in advance on the first day of the month. The tenant also paid a security deposit of \$950.00.

The parties agree the tenant moved out April 10, 2014. I understand that rent was paid for the month of April 2014, pursuant to a previous arbitrator's decision in file 807051.

The tenancy agreement indicates that electricity and heat are not included in the rent. The landlord claims the tenant failed to pay his share of the last BC Hydro and Fortis Gas invoices. He provided copies of the invoices in evidence and explained his calculations. He claims \$513.13 outstanding from the tenant, based on charges until move-out day April 10th only.

The tenant agrees he did not pay his share of the last BC Hydro and Fortis invoices, and agrees with the landlord's calculations that his share is \$513.13. However, the tenant claims that the landlord's inaction in dealing with various repairs resulted in utilities costs that were higher than they would have been if the landlord had better dealt with repairs. The tenant claims retroactive reductions totalling \$342.75, to effectively reduce utilities costs.

Bathroom window – The tenant gave evidence the window was stuck open for a period of about three months from March 2012 to June 2012, and this resulted in a loss of heat. He did not keep records but thinks he told the landlord in March 2012.

The landlord gave evidence that he always responded to calls the same day or the next. He says they fixed the window the first time the tenants complained, and after they fixed it, it would close but it was hard to open and close. The handyman put new hinges on in the summer of 2013 and that made it open and close more easily.

Leak in living room – The tenant gave evidence there was leak in the wall and ceiling of the living room, and rain dripped in. It started in November or December 2013 and he says he notified the landlord as soon as he noticed the water inside. He says the landlord came out to look at it but the weather prevented repair. Asked if the landlord could have repaired the roof sooner if he wanted to, the tenant was not sure. The tenant's evidence is that a garbage bag was taped to the roof in the meantime, and the tenants placed tape over the crack in the interior wall. These interim measures lasted about five months.

The landlord gave evidence that he fixed the roof the same day the tenant called. He says he and his son brought shingles and added them to the roof. He says this occurred in the summer or fall of 2013.

Leak in shower – The tenant gave evidence that the shower leaked hot water from time to time into the tub. He said there was a constant drip in December 2013 and January 2014. The landlord had a new tap installed, but it did not fit properly and so the handyman used tape to seal it. The tenant is concerned that there may have been a water leak behind the tape for February, March, and April 2014.

The landlord gave evidence that the tenants called his handyman regarding the leak in the shower. He says the new tap was installed promptly and the leak stopped right away. However, the tile was not repaired immediately.

Basement flood – The tenant gave evidence he discovered the basement carpet was wet on March 21, 2014. He notified the landlord immediately and tried to dry the carpet using portable heaters. He could smell mold and so he moved his bed to the common area.

The landlord says it was not a flood, just a couple of carpets that got wet. He went to see where the water came from. The next day the tenant told him it was a laundry pipe. The landlord then called a plumber who fixed it.

The tenant also claimed various costs of participating in the hearing process. I advised him that the Act only permits parties to claim their filing fees, and not other costs.

Analysis

The tenant has the burden of proof to show that he is entitled to a reduction in the cost of utilities. He must first show the landlord took an unreasonable amount of time to repair, and then show that the delay likely had a significant impact on the gas heating or electricity costs.

The parties gave differing evidence about how quickly the landlord responded to certain problems. However, the tenant gave more detailed evidence and had appeared to have better recall about what work was done when.

Bathroom window – I accept the tenant's evidence that there was a three-month period when the bathroom window could not be closed (with a reasonable amount of effort). The time period was estimated to be from March to June 2012. The gas-fired furnace was likely on for the first two months of this period, and an open window would have had some impact on heating costs. Since the impact on heating costs is not known, I grant a nominal award of \$20.00 (10 dollars for each of March and April).

Leak in living room – I accept the tenant's evidence that there was a makeshift arrangement for a period of months to prevent water leaking from the roof into the house. However, I find the tenant has not proven that the makeshift arrangement had any significant impact on heating costs. Further, the tenant was not certain whether the

landlord could have repaired the roof more quickly given the weather. I decline to award compensation for this issue.

Leak in shower – I accept the landlord's evidence that the tap was replaced promptly and this stopped the leak of hot water into the tub. The tenant did not provide evidence that there was any lag between the problem being reported to the landlord and the tap being replaced. The tenant expressed concern that water might have continued to drip inside the wall (because the tile was not repaired for a period of time), but this is speculative. I decline to award compensation for this issue.

Water in basement – I accept the evidence of the parties that this issue arose during the last few weeks of the tenancy. During that time, the tenant had to run space heaters to dry the carpet and was unable to sleep in his bedroom due to the smell of mold. I award nominal compensation of \$20.00 in recognition of increased electricity costs.

The total amount due the tenant is \$40.00. Set off against the landlord's amount due of \$513.13 results in a net amount due the landlord of \$473.13. The parties have each had some success and will bear their own filing fee costs.

I order that the landlord retain \$473.13 from the security deposit and return the balance of \$476.87 to the tenant. I grant the tenant a monetary order for \$476.87. This order may be filed in the Small Claims Court and enforced as an order of that Court.

Conclusion

I grant the tenant a monetary order for \$476.87. The landlord may retain the balance of the security deposit.

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: September 23, 2014

Residential Tenancy Branch