



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, FF

Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent or utilities and to recover the filing fee from the tenants for the cost of this application.

This hearing was convened on August 06, 2014 and was adjourned by mutual consent of both parties. The hearing was reconvened on today's date. The tenants and landlord attended the conference call hearing, gave sworn testimony and were given the opportunity to cross examine each other on their evidence. The landlord and tenants provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The parties confirmed receipt of evidence. All evidence and testimony of the parties has been reviewed and are considered in this decision.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order for unpaid rent and utilities?

Background and Evidence

The parties agreed that this month to month tenancy started on April 01, 2012 and ended on February 28, 2013. Rent for this unit was \$900.00 per month due on the 1st of each month.

The landlord testified that at the start of the tenancy she had an arrangement with the tenants that they would repair the ceiling in the unit. The landlord would provide the materials for this work and the tenants would provide the labour. In lieu of the tenants

labour the landlord gave them a reduced rent for the unit of \$900.00 a month for the first year and this rent reduction would be renegotiated after that time. If the tenants had to purchase any other materials for the work required they were to provide the receipts to the landlord for the landlord to confirm and then they could deduct those amounts from their rent.

The landlord testified that despite requests to the tenants for receipts these were not provided to the landlord until October 30, 2014 within the tenants' evidence package. The landlord testified that the reason she needed the receipts was to reconcile them against any rent owed by the tenants.

The landlord testified that without these receipts the landlord made a claim for unpaid rent for the following months to a total amount of \$3,600.00:

May, 2012 - \$500.00

June, 2012 - \$900.00

September, 2012 - \$900.00

October, 2012 - \$100.00

January, 2013 - \$300.00

February, 2013 - \$900.00

A discussion took place during the hearing concerning the receipts provided by the tenants in their evidence. The landlord agreed that the amount of \$1,071.53 can be deducted from the rent owed for the following charges:

The Mavco receipt - \$232.12

The Rat Gut receipts – \$575.00

Fridge/stove receipt - \$150.00

Rona receipt - \$30.50

Three Rona receipts – 65.99

Rental 2001 receipt – 17.92.

The landlord agreed that the total amount now outstanding in rent is \$2,528.47.

The landlord testified that there are outstanding utilities on the tenants' account. The landlord received two letters from the City for which the utility accounts were held. The first letter is dated November 16, 2012 and indicated that the tenants owed utilities to the City of 457.15. This amount was due to be applied to the landlord's taxes. The landlord contacted the tenants and they agreed they owed this amount so the landlord settled this account and seeks to recover this amount from the tenants. The second letter is dated May 09, 2013 and indicated that the tenants owe utilities to the City of \$640.35. The landlord testified that this account was also settled by the landlord, the landlord seeks to recover the costs incurred to settle the tenants' utility accounts of \$1,097.50.

The tenant JL provided testimony for the tenants and disputed that the landlord asked the tenants to scan and email the receipts until a few months after the tenancy started. TJL testified that as they did not have the facilities to do this and as the landlord was currently living elsewhere they could not send the receipts to the landlord. JL testified that they do owe rent as indicated by the landlord.

JL testified that they also had to purchase four heaters when the furnace broke down in October. One for \$29.96 X2 = \$59.92 and the other for \$184.22. JL testified that these heaters were left in the unit for the landlord's use and the tenants seek to have these amounts deducted from the rent owed.

JL testified that the utility bill for \$640.35 is in dispute as the furnace broke down and the tenants had to live for a month and a half without heat. During this period they used the stove and the four heaters they purchased to heat the unit. They notified the landlord the first week of October, 2012 that they were without heat and it took two weeks for the landlord to get back to them. During that time the tenants called the heating company Mavco who came out and condemned the furnace. A week later the landlord contacted the tenants and wanted to get her own quote to replace the furnace. The furnace was replaced on November 14, 2012. Due to the landlord not repairing the

furnace in a timely manner the tenants seek a reduction in their utility bills for the month and a half period they had to use electric stove and heaters which would have increased their utility costs.

The landlord disputed that the tenants left any of the heaters they purchased in the unit. The landlord therefore feels she is not responsible for the costs of the heaters purchased by the tenants as the tenants must still have these heaters in their possession.

The landlord testified that she received an email about the furnace breaking down on October 18, 2012. The landlord responded on October 20, 2012 and asked for the contact number for Mavco. The landlord got the number on October 20, 2012 and on October 29, 2012 the landlord received an email from the tenants with the quote from Mavco. The landlord received another quote from a different company on that date and ordered the new furnace on October 31, 2012. The furnace was installed on November 14, 2012. The landlord testified that she acted in a timely manner as soon as she was notified by the tenants that there was a problem with the furnace. The landlord agreed that the tenants had to heat the unit by another means for a period between October 18 and November 14, 2012 and therefore agreed the tenants can deduct from the rent owed the difference between the previous utility bill and the bill covering this period of \$21.41.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. With regard to the landlord's claim for unpaid rent; I refer the parties to s. 26 of the Act which states:

A tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

I am satisfied from the evidence presented that at this time there is \$3,600.00 in outstanding rent. As the landlord has agreed at the hearing to deduct the cost of materials used to repair the unit of \$1,071.53 from the rent owed, I find the total amount due to the landlord for unpaid rent is **\$2,528.47**.

I am satisfied with the evidence before me that the tenants owe utilities of \$1,097.50. The landlord has agreed at the hearing to deduct the amount of \$21.41 from the amount owed to compensate the tenants for any extra costs to their account due to the use of electric heaters and the stove during the period when the furnace broke down. I find therefore the landlord is entitled to recover the amount of **\$1,076.36**.

As the landlord's claim has merit I find the landlord is entitled to recover the filing fee of **\$50.00** from the tenants pursuant to s. 72(1) of the *Act*.

Conclusion

I HEREBY FIND in favor of the landlord's amended monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$3,654.83** pursuant to s. 67 and 72(1) of the *Act*. The Order must be served on the respondents. If the respondents fail to pay the Order, the Order is enforceable through the Provincial Court 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: November 04, 2014

Residential Tenancy Branch

