



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, FF

Introduction

The Application for Dispute Resolution filed by the Tenant seeks the following:

- a. An order that the landlord comply with the Act, regulations or tenancy agreement.
- b. An order to recover the cost of the filing fee.

A hearing was conducted by conference call in the presence of both parties. On the basis of the solemnly affirmed evidence presented at that hearing, a decision has been reached. All of the evidence was carefully considered.

Both parties were given a full opportunity to present evidence and make submissions. Neither party requested an adjournment or a Summons to Testify. Prior to concluding the hearing both parties acknowledged they had presented all of the relevant evidence that they wished to present.

I find that the Application for Dispute Resolution/Notice of Hearing was sufficiently served on the landlord on September 29, 2015. With respect to each of the applicant's claims I find as follows:

Issue(s) to be Decided

The issues to be decided are as follows:

- a. Whether the tenant is entitled to an order that the landlord comply with the Act, regulations or tenancy agreement?
- b. Whether the tenant is entitled to recover the cost of the filing fee?

Background and Evidence

The tenancy began in 2006. The present rent is \$1062.88 per month payable in advance on the last day of the previous month. The tenant(s) paid a security deposit of \$475 at the start of the tenancy.

Analysis:

The hydro bill:

The tenant acknowledges she is responsible for her share of the hydro. However, she objects the failure of the landlord to provide particulars in the bill and the failure of the landlord to give her a bill in a timely manner..

The rental property houses 4 residential tenancies and 4 commercial tenancies. It is approximately 100 years old. There is one house meter and the landlord pays the hydro based on the one house meter. There are a number of separate meters for each of the rental units. The landlord records the separate hydro usage on a monthly basis, calculates the charges for the individual use and prepares an individual bill for each unit and sends it to the unit. The bill states how much is owed. It does not set out how the bill has been calculated. Further, the tenant testified she has not received the bill on a timely basis. The landlord testified she has sent the bill to the tenant monthly by Canada Post and e-mail.

I determined it is reasonable that the landlord provide particulars as to how the landlord calculates the bill. As a result I ordered that the landlord provide particulars in the bill as to how the landlord calculates the hydro bill and that the landlord send the bill to the tenant by Canada Post and e-mail on a monthly basis.

The Gates:

The tenant also objected to the locking of two gates. She testified she talked to a building inspector in June who told her people must have access and egress and that he/she was referring it to a colleague. She referred to another e-mail from the building inspector sent in July asking whether there were any further issues. The landlord responded stating the owners of the neighbouring property decided to build a fence between the two properties. The landlord did not agree but there was nothing they could do about it. The rental property covers almost all of the property. The landlord has constructed a gate to prevent outsiders from accessing the property to gain access to the garbage bins. The gate has a fire rated crash bar which permits someone to leave via that gate (such as in the case of an emergency). She has given the tenant a key so that she has access. The landlord testified that she has been in discussion with an official from the Fire Marshalls office who has approved the arrangement. The last conversation was a few weeks ago. The other gate off the patio is not longer locked.

The tenant failed to identify what section of the Act, Regulations or the tenancy agreement that she was relying on as required by the Act. Further, she failed to present sufficient evidence that the present arrangement conflicts with the Act, Regulations or tenancy agreement. After carefully considering all of the evidence presented I determined the tenant failed to prove the landlord has failed to comply with the Act, Regulations or tenancy agreement and this claim is dismissed.

Conclusion::

In conclusion I ordered that the landlord provide particulars in the bill as to how the landlord calculates the hydro bill and that the landlord send the bill to the tenant by Canada Post and e-mail on a monthly basis. I dismissed the tenant's application relating to the gate. The tenant paid a filing fee of \$50. She has been successful with half of her claim. I ordered that the landlord pay to the tenant the sum of \$25 being half of the cost of the filing fee.

It is further Ordered that this sum be paid forthwith. The applicant is given a formal Order in the above terms and the respondent must be served with a copy of this Order as soon as possible.

Should the respondent fail to comply with this Order, the Order may be filed in the Small Claims division of the Provincial 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: November 27, 2015

Residential Tenancy Branch

