



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNC, CNR, MNDC, ERP, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) to dispute a rental increase under Section 43 and for Orders as follows:

1. A cancellation of two notices to end tenancy – Sections 46 and 47;
2. A Monetary Order for compensation - Section 67;
3. An Order for emergency repairs - Section 32; and
4. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

Preliminary Matters

At the onset of the hearing the Tenant stated that he had moved out of the unit in early January 2015 and that he no longer is disputing the notices to end tenancy. Accepting this I dismiss the Tenants claim to cancel the notices. As the Tenant has moved out of the unit, repairs to the unit are no longer the concern of the Tenant and I dismiss this claim.

Issue(s) to be Decided

Is the Tenant entitled to compensation?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy of a house started in February 2015. Rent of \$2,200.00 was payable monthly.

The Tenant states that the tenancy agreement provides that the Tenant pay the utilities. The Tenant states that a garage is attached to the house however the tenancy does not include the garage. The Tenant states that he discovered after move into the unit that the garage was included in the provision of electricity. The Tenant states that he asked the Landlord for compensation for the use of electricity to the garage and the Landlord refused. The Tenant claims \$40.00 per month for the use of electricity by the garage for a total of \$360.00. the Tenant states that the does not know the exact amount of electricity used by the garage but that he felt he was paying too much for electricity to only the house.

The Landlord states that the applicant is not a tenant. The Landlord states that the Tenant knew when he moved into the unit that the garage was being used by a third party. The Landlord states that the Tenant was informed that the garage was only being used for storage. The Landlord states that the storage use does not incur any electrical costs as the tenants of the garage manually open the garage door and that the bulbs in the garage are all broken. The Landlord states that there are no appliances using electricity in the garage. The Landlord states that he is getting paid \$300.00 per month for the rent of the garage.

Analysis

Section 7 of the Act provides that where a landlord does not comply with the Act, regulation or tenancy agreement, the landlord must compensate the tenant for damage or loss that results. Although the Landlord argues that the applicant is not a tenant the Landlord has provided evidence that conflicts with this position and I therefore do not accept this evidence. I find that the Tenant's evidence about not knowing that he was paying for the electricity to the garage to be believable and plausible. As there is no dispute that all the electrical costs were born by the Tenant and considering that there

would reasonably be at least a minimal electrical cost for the use of the garage as storage but accepting that there is no definitive amount calculated for that extra costs, I find that the Tenant has only substantiated a nominal amount of \$20.00 per month for the cost of the electricity for the garage. Accepting the Tenant's undisputed evidence of paying for the electricity from February 2015 to at least the end of December 2015 I find that the Tenant is therefore entitled to 20.00 x 11 months for a total compensation of **\$220.00**. AS the Tenant's application has had some success I find that the Tenant is entitled to recovery of the \$50.00 filing fee for a total entitlement of **\$270.00**.

Conclusion

I grant the Tenant an order under Section 67 of the Act for the amount of **\$270.00**. If necessary, this order may be filed in the Small Claims 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: January 20, 2016

Residential Tenancy Branch

