



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding HOMELIFE GLENAYRE REALTY CHILLIWACK LTD PROPERTY
MANAGEMENT DIV
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes MNR, FF

Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid rent or utilities pursuant to section 67; and
- authorization to recover its filing fee for this application from the tenant pursuant to section 72.

The tenants did not attend this hearing, although I waited until 1348 in order to enable the tenants to connect with this teleconference hearing scheduled for 1330. The landlord's agent attended the hearing and was given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The agent testified that she personally served the tenants with the dispute resolution package on 10 October 2015. The landlord provided me with a witnessed proof of service document that set out the agent dropped the package at the tenant CK's feet while telling the tenants that the package contained dispute resolution documents. On the basis of this evidence, I am satisfied that the tenants were served with the dispute resolution package pursuant to section 89 of the Act.

Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid utilities? Is the landlord entitled to recover the filing fee for this application from the tenants?

Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the agent, not all details of the submissions and / or arguments are reproduced here. The principal aspects of the landlord's claim and my findings around it are set out below.

This tenancy began 1 May 2012 and ended 30 April 2015. Monthly rent was \$1,375.00. The landlord retained the tenants' security deposit as compensation for damages to the rental unit as part of a mutual agreement at the end of the tenancy.

The parties entered into a written tenancy agreement on 3 April 2012. Clause 2 of the tenancy agreement sets out that the tenants were responsible for utilities, including utilizes provided by the city.

On 9 July 2015, the landlord wrote to the tenants providing a utility invoice dated 21 April 2015. This invoice dealt with the provision of water, sewer, and garbage services to mid-April. The invoice was in the amount of \$175.78.

On 6 August 2015, the landlord wrote to the tenants providing a utility invoice dated 30 July 2015. The invoice dealt with the provision of water, sewer, garbage, and yard waste:

Item	Amount
Basic Water (18.04.15-17.07.15)	\$21.50
Basic Sewer (18.04.15-17.07.15)	30.77
Metered Water (17.04.15-16.07.15)	15.60
Metered Sewer (17.04.15-16.07.15)	25.20
Garbage (18.04.15-17.07.15)	48.02
Yard Waste (1.06.15-17.07.15)	14.74
Interest (05.06.15-30.07.15)	1.55
Total	\$157.38

The landlord sent a second demand for payment on 26 August 2015. The second demand letter included the invoice.

Analysis

Section 67 of the Act provides that, where an arbitrator has found that damages or loss results from a party not complying with the Act, an arbitrator may determine the amount of that damages or loss and order the wrongdoer to pay compensation to the claimant.

The claimant bears the burden of proof. The claimant must show the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act by the wrongdoer. If this is established, the claimant must provide evidence of the monetary amount of the damage or loss.

Clause 2 of the tenancy agreement establishes that the tenants were responsible for the cost of utilities provided by the city. By failing to pay these amounts the tenants caused the landlord to incur the direct cost of paying the amounts.

The landlord provided an invoice for utilities in the amount of \$175.78. The tenants resided in the rental unit for the entire period to which this invoice relates. On this basis, the landlord has shown its entitlement to compensation equivalent to the full amount of the invoice.

The landlord provided a second invoice for utilities. The tenants resided in the rental unit for only a portion of the period to which the invoice relates. The landlord has asked to be compensated for the costs on a *per diem* basis where applicable:

Item	Amount
Basic Water 12/91 days	\$2.84
Basic Sewer 12/91	4.06
Metered Water 13/91	2.23
Metered Sewer 13/91	3.60
Garbage 12/91	6.33
Yard Waste 0	0
Interest	1.55
Total	\$20.61

There are no submissions or evidence provided by the tenant to show that a straight *per diem* calculation would result in an unfair outcome. On this basis, I accept the landlord's submission that the tenants are responsible for the *per diem* costs of the utilities amounts. The tenants are fully responsible for the interest costs as they did not pay the invoice as required. The landlord has proven its entitlement to \$20.61.

As the landlord has been successful in this application, it is entitled to recover its filing fee paid from the tenants.

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$246.39 under the following terms:

Item	Amount
Unpaid Utilities	\$175.78
Unpaid Utilities	20.61
Recovery of Filing Fee for this Application	50.00
Total Monetary Order	\$246.39

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with this order, this 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 subsection 9.1(1) of the Act.

Dated: April 21, 2016

Residential Tenancy Branch