



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes CNR OLC FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for: cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent pursuant to section 46; an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62; authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, and to make submissions. The tenant acknowledged receipt of the landlord's 10 Day Notice issued to the tenant on November 5, 2017. The landlord acknowledged receipt of the tenant's Application for Dispute Resolution to cancel the notice to end tenancy on or about November 8, 2017.

Before the conclusion of this hearing, the parties discussed the issues between them, engaged in a conversation, turned their minds to compromise and achieved a resolution of their dispute.

Background and Evidence

This tenancy began in 2013. The current rental of \$1367.19 is payable on the first of each month. The landlord issued a 10 Day Notice to End Tenancy for Unpaid Rent on November 5, 2017. His documentary evidence indicated that the tenant had failed to pay rent on time for several months and that the tenant currently owed \$2280.00 in rental arrears as well as an additional amount in unpaid utilities. The landlord and tenant agreed to terms that would allow the tenancy to continue and the landlord to be paid the rental arrears. Both parties made compromises with respect to the utilities in order to reach an agreement.

Analysis

Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision or an order. Given the agreement reached between the parties during the proceedings, I find that the parties have settled their dispute and the following records this settlement as a decision:

The Parties mutually agreed as follows:

1. The tenant agreed to pay a monthly rental amount of \$1367.19 on the first of each month in accordance with the tenancy agreement and the Act.
2. The tenant agreed to pay an additional \$700.00 per month from February 1, 2018 to August 1, 2018 in order to pay the outstanding rental and utility arrears. On completion of these 7 payments and as of August 1, 2018, the outstanding rent and utilities will be considered paid in full.
3. The landlord agreed to calculate the average the utilities amount paid for the rental unit over the past 12 months. The landlord and tenant agree to accept this calculation as the ongoing utilities amount paid each month with the rent on the first of each month. The tenant agreed to pay 25% of that averaged monthly amount in utilities on an ongoing basis.
The amount will be calculated as follows and an addendum to the tenancy agreement will be created to reflect the new agreement on utilities payments from February 1, 2018 forward until the end of the tenancy unless another agreement is made voluntarily and in writing by both parties.

12 months total of water, heat and electricity paid = AMOUNT
UTILITIES ÷ 12 = TOTAL AVERAGE MONTHLY UTILITIES

25% (.25) x TOTAL UTILITIES = TENANT UTILITIES *per month*

4. The parties agree that water, previously not included, will be included in the utilities from the previous 12 months used to calculate the average monthly utility amount. The addendum to the tenancy agreement will also reflect this change.
5. These terms comprise the full and final settlement of all aspects of this dispute for both parties.

The parties confirmed at the end of the hearing that this agreement was made on a voluntary basis – the agreement terms were almost exclusively the creation of the two parties in conversation regarding the outstanding amounts. The nature of the settlement was discussed and summarized for both parties prior to the end of the hearing. The parties understood that this settlement agreement represents a full and final settlement of this matter of payment of rent and utilities.

Conclusion

To give effect to the settlement reached between the parties, I issue a monetary order to the landlord dated August 1, 2018 in the amount of \$2280.00 to be used if and only if the tenant fails to pay rental arrears to the landlord. The tenant must be served with this Order as soon as possible. Should the tenant 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 Section 9.1(1) of the *Residential Tenancy Act*.

Dated: January 23, 2018

Residential Tenancy Branch