



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDC, FF

Introduction

The tenants apply to recover utility costs that they paid for a second rental unit in the same house.

The listed parties attended the hearing and were given the opportunity to be heard, to present sworn testimony and other evidence, to make submissions, to call witnesses and to question the other. Only documentary evidence that had been traded between the parties was admitted as evidence during the hearing.

Issue(s) to be Decided

Did the tenants overpay utilities? If so, by how much?

Background and Evidence

The rental unit is the two bedroom main floor of a house. The home is built on a slope down from the road. There is a basement or lower level that is at ground level in the backyard. There is a one bedroom apartment or suite in the basement. It has a separate entrance. Also in the basement level are a laundry room and storage room shared between upper and lower tenants as well as the furnace room containing the furnace and hot water heater.

This tenancy started in August 2018 and ended in August 2019. The monthly rent was \$2400.00. The tenants paid a \$1200.00 security deposit and a \$500.00 pet damage deposit.

At the landlords' request the tenants put the Fortis gas and Hydro electrical accounts into their name. There is but one meter for each service in the house and so the gas and electricity used by occupants of the basement suite would be charged to the tenants' account.

It is alleged by the landlord Mr. K. that it was agreed the landlords would pay one third of the utilities if and when either the landlords or renters occupied the basement suite. The tenant Mr. R. strongly denies such an agreement and thinks the landlords should pay one half of the utilities, based on what he says are the equal floor area of the two rental units.

The tenants seek to recover a total of \$584.57, being half the utility costs.

The landlord Mr. K. says the lower suite was vacated soon after the tenancy started and remained so but for infrequent landlord use until April. He says it was occupied seven days in April, seven days in May, 21 days in June and ten days in July.

He also alleges that the tenants were making money using their rental unit as a party house and that the tenant Mr. R. was racist and abusive. These allegations have not been established on a balance of probabilities and are, in any event, only distantly relevant to this claim, if at all.

Analysis

Residential Tenancy Policy Guideline 1: *Landlord & Tenant – Responsibility for Residential Premises* provides:

A term in a tenancy agreement which requires a tenant to put the electricity, gas or other utility billing in his or her name for premises that the tenant does not occupy, is likely to be found unconscionable as defined in the Regulations.

It is unfair to require the tenant(s) of one rental unit to be legally obliged to pay utility costs to a utility provider for services rendered to the tenant(s) of another rental unit. Had this tenancy been continuing, a different arrangement might well have been ordered.

It is not uncommon for tenants of different rental units to agree to pay a proportion of utility costs billed to the landlord. Often that proportion is based on square footage or the number of bedrooms in each suite. The agreed proportion one tenant pays is unrelated to whether or not other suites are rented or vacant.

The fact that these tenants were required to pay the full utility bills was unfair.

I find that a fair distribution of utility costs would be two thirds to these tenants.

On that basis I award the tenants recover of one third of the utility costs: the amount of \$389.71 plus recovery of the \$100.00 filing fee for this application.

Conclusion

The tenants will have a monetary order against the landlords in the amount of \$489.71.

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: August 20, 2019

Residential Tenancy Branch