



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, MNDCT, FFT

Introduction

On February 5, 2021, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (“the Act”) asking that the Landlord comply with the Act, Regulation, or Tenancy Agreement. On April 16, 2021 the Tenants amended the application to include a claim for money owed or compensation for damage or loss.

The matter was set for a conference call hearing. The Tenants and Landlords appeared at the hearing. Both parties were assisted by counsel. The hearing process was explained, and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence, orally and in written and documentary form, and make submissions to me. The parties were informed that recording the hearing is not permitted.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenants and Landlord testified that the tenancy ended by mutual agreement on May 1, 2021. Since the tenancy has ended there is no need to proceed with the request for an order that the Landlord comply with the Act, Regulation, or tenancy agreement.

The hearing proceeded on the Tenants’ claim for money owed or compensation for damage or loss.

Issue to be Decided

- Are the Tenants entitled to money owed or compensation for damage or loss?

Background and Evidence

The Landlords and Tenants both testified that the tenancy began on December 15, 2019 on a month to month basis. Rent in the amount of \$1,600.00 was to be paid to the Landlords by the first day of each month.

The rental unit is a carriage home located on a residential property.

The Tenants are seeking compensation of \$475.00 from the Landlord for hydro costs that they paid on behalf of another occupant living on the rental property. The Tenants testified that when they entered into the tenancy they were not aware that the hydro electricity account in their name, and which they pay for, was also being used by a person living in a recreational vehicle ("RV") located on the residential property. The Tenants became aware of the situation on March 27, 2020 and they stated that the Landlord paid them compensation of \$150.00 per month for the period of December 15, 2019 to July 2020.

The Tenants testified that in July 2020 the parties reached an agreement where the Tenants and the person living in the RV would pay their share of electricity usage based on reading taken from a meter that was installed to the carriage home and another meter that measured electricity to the RV. The hydro account was in the Tenants name and they had to collect the RV hydro costs directly from the RV occupant.

The Tenants testified that RV occupant moved off the property in January/ February 2021 and did not pay his share of the electrical costs. The Tenants asked the Landlord to pay the portion owing by the RV occupant, and the Tenants indicate that initially the Landlord did not respond and later claimed the meter readings are false.

The Tenants provided testimony on the weekly hydro readings for the RV for an eight-week period of time from January 18, 2021 to March 18, 2021. The Tenants stated that the total hydro into the carriage house was 4588 KWH and that the usage reading for the RV occupant is 3121 KWH.

The Tenants provided copies of previous hydro bills including a copy of the hydro bill for the period of January 18, 2021 to March 18, 2021. The Tenants also provided the hydro bill for the previous bill cycle of November 18, 2020 to January 18, 2021. The

Tenants provided photographs of the weekly meter readings for the RV for the period of November 18, 2020 to January 18, 2021. The Tenants submitted that the total usage of the RV for this previous bill was 3825.6 KWH amounting to \$437.00.

The Tenants also stated that water was supplied to them from a well on the property and that the water pump is supplied electricity from the electrical line going to the carriage home and RV. The Tenants submitted that the well pumps water to four separate dwellings on the property and the electrical cost is paid for by the Tenants and RV occupant. The Tenant then submitted that there is no well being anymore as the property is now on city water and that for the last couple months of their tenancy the pump was not using electricity.

In response to the Tenants' testimony, the Landlord testified that the RV tenant vacated the property on February 20, 2021.

The Landlord's counsel submits that the Tenants want the RV occupant to pay \$475.00 from a bill of \$679.17. He submits that the carriage house is three times the size of the RV. He submits that their claim is not clear on the consumption of wattage by the RV occupant. He submits that the Landlords already provided all compensation that is due to the Tenants.

The Landlord, Mr. W. R. testified that the residential property was hooked up to city water in July 2020 and both wells located on the property were shut down in July 2020.

Analysis

Residential Tenancy Policy Guideline #1 Landlord & Tenant – Responsibility for Residential Premises provides the following information:

Shared Utility Service

- 1. 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.*
- 2. If the tenancy agreement requires one of the tenants to have utilities (such as electricity, gas, water etc.) in his or her name, and if the other tenants under a different tenancy agreement do not pay their share, the tenant whose name is on the bill, or his or her agent, may claim against the landlord for the other tenants' share of the unpaid utility bills.*

Residential Tenancy Branch Policy Guideline 16 provides the following information with respect to types of damages that may be awarded to parties:

An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided.

Based on the above, the testimony and evidence of the parties, and on a balance of probabilities, I find as follows:

I find that it is decidedly unfair to the Tenants to require them to have the electrical utility in their name that fed electricity the RV they did not occupy. The Tenants should not be put in a position to have to chase down the portion of hydro owing to them from another occupant of the rental property. I find that this portion of the tenancy agreement is unconscionable. I find that it is reasonable that the Tenants have claimed against the Landlord to pay the RV tenant's share of the hydro bill.

With respect to the amount being claimed of \$475.00, the Landlord's counsel submitted that the carriage home is three times the size of the RV and the amount is inflated, and that the claim is not clear on the consumption of wattage by the RV occupant. While I accept that the carriage home is larger than the RV, I find this does not prove that the RV must be using less hydro. It is not clear to me how the Landlord has determined that the RV occupant could not have used that amount of hydro. The billing period is in the winter season. I note that the hydro bill is consistent with the hydro bill for the same period one year earlier. I also note that the RV meter readings from the previous billing cycle indicates the RV occupant owed \$437.00.

After considering the evidence before me, I find that the Tenants have provided the better evidence that the RV occupant owes the Tenants \$475.00 for hydro usage. Since I find that the arrangement for the Tenants to recover the hydro costs from the RV occupant is unconscionable, I order the Landlords to pay the amount of \$475.00 to the Tenants.

I accept the evidence before me that the water well pumps were shut down in July 2020. I find that the Tenants hydro electricity usage was not affected by a well water pump for the period of January 18, 2021 to March 18, 2021 time period.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenants were successful, I order the Landlords to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution.

I find that the Landlords owe the Tenants the amount of \$575.00 for a hydro bill and the filing fee.

Conclusion

I find that the term of the tenancy agreement where the Tenants are required to recover hydro costs from another occupant living on the residential property is unconscionable. I find that the RV tenant owes the Tenants \$475.00 for unpaid hydro electricity costs. I find that it is reasonable that the Tenants have claimed against the Landlord to pay the RV tenant's share of a hydro bill.

I award the Tenants a monetary order in the amount of \$575.00. This monetary order must be served on the Landlords and may be enforced in Provincial 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: May 26, 2021

Residential Tenancy Branch