



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 0821149 B.C. LTD and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes

TT: **CNR-MT, OLC, FFT**
LL: **FFL, OPU, MNRL, OPN**

Introduction

This hearing dealt with applications from both the landlord and tenant pursuant to the *Residential Tenancy Act* (the “Act”).

The corporate landlord applied for:

- An order of possession pursuant to section 55;
- A monetary award for unpaid utilities pursuant to section 67; and
- Authorization to recover the filing fee from the tenant pursuant to section 72.

The tenant named the personal landlord and applied for:

- more time to make an application to cancel the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent (the “10 Day Notice”) pursuant to section 66;
- cancellation of a 10 Day Notice to End Tenancy pursuant to section 46;
- an order that the landlord comply with the Act, regulations or tenancy agreement pursuant to section 62; and
- authorization to recover the filing fee from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The personal landlord confirmed that they are the agent for the corporate applicant landlord.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

At the outset of the hearing the parties testified that the tenant has vacated the rental unit and this tenancy has ended. The tenant withdrew their application in its entirety. The landlord withdrew the portion of their application seeking an order of possession.

The tenant testified that they received the landlord's application and materials and based on the testimonies I find they were duly served in accordance with sections 88 and 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 from the tenant?

Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began on August 17, 2019. Monthly rent was \$600.00 payable on the first of each month. A security deposit of \$300.00 and a key deposit of \$100.00 were collected and are still held by the landlord. A copy of the signed tenancy agreement was submitted into evidence.

The signed tenancy agreement provides that:

RESIDENT agrees to pay all utilities and/or services based upon occupancy of the premises except for natural gas for the hot water.

The landlord submits that the invoice for water and sewer for the whole rental building is issued to the landlord by the municipality and the landlord then calculates the portion attributable to each rental unit and provides written notice about the amount payable. The landlord submitted into documentary materials copies of the invoices from the municipality and their written demand issued to the tenant. The landlord submits that as at the date of the hearing the utility arrear for this tenancy is \$796.60.

The tenant disputes the landlord's claim and submits that they are unsure of the meaning of utilities under the tenancy agreement and their obligation to pay.

Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I am satisfied with the documentary evidence and testimony of the landlord that the tenant was obligated to pay utilities for this tenancy. I find the wording contained in the signed tenancy agreement to be unambiguous and clear that the tenant is required to pay all utilities.

I accept the submission of the landlord supported in their documentary materials that the total utilities payable by the tenant for this tenancy is \$796.60. I am satisfied that the landlord has been issued invoices from the municipality and that they have subsequently made written demand for their portion payable from the tenant.

Accordingly, I find that the landlord is entitled to a monetary award in the amount of \$796.60, the unpaid utilities as of the date of the hearing.

As the landlord was successful in their application they are entitled to recover their filing fee from the tenant.

In accordance with sections 38 and the offsetting provisions of 72 of the *Act*, I allow the landlord to retain the tenant's security and key deposit in partial satisfaction of the monetary award issued in the landlord's favour

Conclusion

I issue a monetary order in the landlord's favour in the amount of \$496.60, allowing for the recovery of the unpaid utilities and filing fee and to retain the security and key deposit for this tenancy. 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.

The balance of the applications are dismissed without leave to reapply.

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 19, 2021

Residential Tenancy Branch