



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC FFT

Introduction

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

- 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 an opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. In accordance with the *Act*, Residential Tenancy Rule of Procedure 6.1 and 7.17 and the principles of fairness and the Branch's objective of fair, efficient and consistent dispute resolution process parties were given an opportunity to make submissions and present evidence related to the claim. The parties were directed to make succinct submissions, and pursuant to my authority under Rule 7.17 were directed against making unnecessary submissions or remarks not related to the matter at hand.

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.

As both parties were present service was confirmed. The parties each testified that they received the respective materials and based on their testimonies I find each party duly served in accordance with sections 88 and 89 of the *Act*.

Issue(s) to be Decided

Should the landlord be ordered to comply with the Act, regulations or tenancy agreement?

Are the tenants entitled to recover their filing fee from the landlord?

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 background facts. This tenancy began on September 1, 2021. The rental unit is a basement suite in a detached home with another occupant residing in the other portion of the building. The monthly rent is \$2,625.00 payable on the first of each month. The signed tenancy agreement also provides that the tenants are responsible for paying utilities for the unit, specifically half of the BC Hydro and water bills for the building.

The parties agree that the landlord has never provided the tenants with copies of the utility bills for the building from the utility companies and instead has sent them email correspondence calculating their portion that is payable. The parties agree that the tenants have requested the landlord provide copies of the utility bills on multiple occasions, stating that a screenshot of an online account or photograph of a bill would suffice. Copies of the correspondence between the parties was submitted into evidence.

The landlord initially testified that they have no access to the original utility bills as the utility accounts are registered under the name of a separate property owner. The landlord subsequently testified that the utility companies do not provide invoices as everything is done digitally in this era. They subsequently testified that they do not need to provide the original utilities and their written demand in the correspondence are sufficient. The landlord said the tenants have not paid the utilities as demanded in the correspondence and they have a basis to issue a Notice to End Tenancy for Unpaid Rent.

The parties also testified about one instance when the landlord physically showed them what appeared to have been the original utility bill from the provider on the landlord's

phone but confirm that the landlord has not provided them with either physical or electronic copies of the original electricity or water bills for the property.

Analysis

The parties agree that the tenants are responsible for paying utilities in an amount that is 50% of the total amount for the rental property.

Subsection 46(6) of the *Act* provides that:

If

(a) a tenancy agreement requires the tenant to pay utility charges to the landlord, and

(b) the utility charges are unpaid more than 30 days after the tenant is given a written demand for payment of them,
the landlord may treat the unpaid utility charges as unpaid rent and may give notice under this section.

While the *Act* and regulations are silent on the contents of written demand for payment of utilities, a reasonable interpretation of any demand would include a copy of the invoice or bill and calculations clearly outlining the amount the tenant is responsible to pay. I find that an email correspondence from the landlord wherein they are simply citing a figure and requiring the tenants pay that amount without providing any additional information on how that figure was derived fails to meet the minimum reasonable requirements that would form the basis of a demand for payment.

In the present circumstances, in the absence of a copy of the original invoice or bill from the utility company, accompanied by calculations as to how the amount payable by the tenants is derived, I find the landlord has not met their requirement to give written demand for payment of the utilities. Therefore, I find the tenants are under no obligation to pay the amounts cited by the landlord in the email correspondence.

I do not find the landlord's various inconsistent and contradictory reasons for not providing copies of the receipts and invoices to be convincing or reasonable. I am not aware of any utility company that would not provide a copy of the receipt or invoice for their charges. Even if a paper copy is not available, the landlord could provide a pdf

copy or a screenshot of the relevant page of their utility account showing the amount charged. If there are privacy reasons due to the registered name on the account being an individual other than the landlord, that part could simply be redacted. I find no reasonable reason why the landlord could not provide the tenants with a copy of the invoice from the utility provider.

If the landlord intends to seek the payment of utilities under the tenancy agreement, I find the landlord must give written demand which includes a copy of the original invoice or receipt from the utility provider and detailed calculations of how they arrived at the amount payable by the tenants. As the landlord has failed to give the detailed breakdown of utilities for this tenancy despite the tenants requesting the landlord do so on multiple occasions throughout the tenancy, I find the landlord has effectively waived their right to these payments.

Under the circumstances, I find the landlord has waived their right to payment of utilities from the start of the tenancy on September 1, 2021 to the date of the hearing July 11, 2022 by failing to give clear indication on the amounts owing. I find the tenants have made multiple requests for this information which was withheld by the landlord. I find that the conduct of the landlord amounts to a waiver of their right to claim utility payments for this period and they are estopped from making demand of these past utility charges.

If the landlord intends to seek payment of the utilities for this tenancy I find they are obligated to provide some reasonable information as to the amount owing which includes a copy of the original bill or invoice. Until such written demand is provided to the tenants I find there is no obligation on them to make payments of any utilities or other charges that are not properly delineated.

As the tenants were successful in their application they are entitled to recover the filing fee from the landlord. As this tenancy is continuing I allow the tenants to make a one-time deduction of \$100.00 from their next scheduled rent payment.

Conclusion

The tenants are successful in their application.

The landlord must provide a copy of the original utility bill or invoice if they intend for the tenants to make payment for utilities.

The landlord is found to have waived their right to seek payment of any utility charges arising from September 1, 2021 to July 11, 2022.

The tenants are authorized to make a one-time deduction of \$100.00 from their next scheduled rent payment.

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: July 11, 2022

Residential Tenancy Branch