



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding ALLCORP FINANCING CORP.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes OLC, FFT

Introduction

On April 10, 2019, the Tenants applied for a Dispute Resolution proceeding seeking an Order for the Landlord to Comply pursuant to Section 62 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenants attended the hearing and B.A. attended the hearing on behalf of the Landlord. All parties provided a solemn affirmation.

The Tenants advised that they served the Landlord with the Notice of Hearing package by registered mail on April 11, 2019 and the Landlord confirmed that he received this package. In accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing package.

The Tenants advised that they served the Landlord with their evidence by registered mail on April 30, 2019 and the Landlord confirmed that he received this. As service of this evidence complies with the time frame requirements of Rule 3.14 of the Rules of Procedure, I have accepted this evidence and will consider it when rendering my decision.

The Landlord advised that he served the Tenants with his evidence by registered mail “last week or 10 days ago”; however, he did not have any proof of service and the Tenants advised that they did not receive any evidence. Based on this affirmed testimony, I am not satisfied that the Landlord served this evidence. As such, I have excluded this evidence and will not consider it when rendering my decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me;

however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Are the Tenants responsible for paying utilities?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the most current tenancy started on December 1, 2018. Rent was established at \$1,224.00 per month, due on the first day of each month. The Tenants paid a security deposit of \$600.00 and a pet damage deposit of \$600.00 as well.

The Tenants advised that they lived in the rental unit for seven years, but the property sold to the current Landlord two years ago. They stated that they never received any water bills and had never had to pay any bills for water in the seven years that they lived there. They submitted that there is nothing in their tenancy agreement that stipulates that they are responsible for paying for the water bills, but they received a copy of the water bill from the Landlord on March 25, 2019 with a request to pay this amount of \$1,705.00.

The Landlord advised that the tenancy agreement does not stipulate that he is responsible for the water bill, so he asked the Tenants to pay for this. As well, he stated that the previous tenancy agreement required the Tenants to pay for the water as well. He stated that the bill was for \$1,705.00 but he was not sure what billing period this was for and he did not have any documents in front of him to assist him in providing details of his submissions. He confirmed that payment for the water bills has never been collected in the past.

Analysis

When reviewing the testimony of the parties, the consistent evidence is that the Tenants have never paid for the water bill in the seven years they have lived in the rental unit. While the terms of the tenancy may have changed over the years, there has been no

evidence presented before me to support that the Tenants are responsible for the water bill.

Furthermore, the amount of the alleged bill appears to be quite large, which indicates that this could be an amount that has accrued over a significant amount of time. Even if the Tenants were responsible for the water bill, I question why the Landlord did not pursue reimbursement earlier when the amount owing was more reasonable, as opposed to waiting until the amount was unreasonably exorbitant. If the Tenants did owe for the water bill, I find that the Landlord waiting for so long to ask for compensation back demonstrates a lack of minimizing this loss on the Landlord's part. Based on this, the undisputed evidence that the Tenants have never paid for the water bill in the past, and the lack of evidence supporting that the Tenants were responsible for this utility, I am not compelled that the Tenants were ever required to pay for this bill.

As the Tenants have been successful in their claim, I find that the Tenants are entitled to recover the \$100.00 filing fee paid for this Application. As such, I allow the Tenants to withhold this amount from a future month's rent.

Conclusion

Based on the above, I am satisfied that the Tenants are not responsible for paying for the utilities as requested by the Landlord.

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 21, 2019

Residential Tenancy Branch