



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      OLC, ERP, RP, PSF, RR

### Introduction

This matter dealt with an application by the Tenant for an order that the Landlord comply with the Act by making repairs or emergency repairs and provide services or facilities required by law. The Tenant also sought an order permitting him to deduct the cost of services or facilities (agreed to but not provided) from his rent.

The Tenant said he served the Landlord at his residence by registered mail on July 17, 2009 with a copy of the Application and Notice of Hearing. The Tenant also said he served the Landlord at his residence by registered mail on July 29, 2009 with a copy of the Amended Application. According to the Canada Post online tracking system, notification cards were left for the Landlord on July 20, 2009 and July 30, 2009 respectively. I find that the Landlord was served as required by s. 89 of the Act and the hearing proceeded in his absence. At the beginning of the hearing, the Tenant confirmed that the Landlord's name had been misspelled on his application. Consequently, the style of cause is amended to reflect the correct spelling.

### Issues(s) to be Decided

1. Are repairs required?
2. Have services or facilities been withheld and if so, is the Tenant entitled to a rebate of rent?

### Background and Evidence

This tenancy started approximately 5 years ago. Rent is \$730.00 per month which includes gas heat and hydro. The Tenant said that other tenants in the rental property were responsible for paying the gas and hydro accounts but in early July, 2009 they moved out leaving the accounts in arrears. On July 9, 2009, hydro and gas to the rental property were disconnected. Hydro was reconnected on July 10, 2009, however, the gas was not reconnected until July 18, 2009 when a new tenant took over the account. As a result, the Tenant said he had no hydro for one day and no hot water for 10 days. The Tenant said he contacted the Landlord about these matters but the Landlord was verbally abusive and suggested that he should put the accounts in his own name.

The Tenant also argued that when he moved he should be allowed to remove a washer and dryer and a chicken wire fence that he built around a pool on the rental property.



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## Analysis

Section 27 of the Act says that a Landlord must not terminate or restrict a service or facility if it is essential to the tenant's use of the rental unit or a material term of the tenancy agreement. If the Landlord does terminate or restrict a service or facility, the Landlord may be responsible for compensating the Tenant in an amount equivalent to the reduced value of the tenancy.

I find that heat and hydro were included in the Tenant's rent and therefore it was a material term of the tenancy agreement that these services be provided by the Landlord. Furthermore, RTB Policy Guideline #1 (Responsibility for Residential Premises) at p. 9 states that "a term of a tenancy agreement that 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." Consequently, I find that the Tenant is entitled to be compensated for his loss of hydro (for one day) of \$10.00 and for a loss of heat for 10 days in the amount of \$70.00. **Pursuant to s. 65(1), I order that the Tenant may deduct \$80.00 from his next rent payment when it is due and payable.**

The Tenant's application for an order permitting him to remove a fence and washer and dryer are premature and it is dismissed with leave to reapply. However, for the further information of both Parties, RTB Policy Guideline #1 (Responsibility for Residential Premises) at p. 8 sets out the rules with respect to the removal of a Tenant's personal property including fences at the end of a tenancy.

## Conclusion

The Tenant's application for repairs or emergency repairs is dismissed. The Tenant has made out a claim for \$80.00 and he may deduct that amount from his next rent payment. The Tenant's application regarding the removal of a washer and dryer and fence are dismissed with 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 11, 2009.

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Dispute Resolution Officer