



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes

MNDC

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

This is a request for a monetary order for \$3826.40.

### Background and Evidence

The applicant testified that:

- Since moving into this rental unit on April 1 of 2005 he has paid all the utilities for the full House, even though there's another rental suite in the house.
- When he first moved into the rental unit he was not aware that he was paying utilities for the full House and later when he found out the landlord told him that the upstairs tenants have always paid the full utilities.
- He has frequently brought the matter up to the landlord; however the landlord would not consider changing the situation.
- After recently becoming more educated on the Residential Tenancy Act , he now believes that requiring him to pay all the utilities when there is another suite in the rental building is an unconscionable term of the tenancy agreement.

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- He has estimated that he is occupying 66.56% of the rental property, and therefore he believes he should only be paying 66.56% of the utilities.

The applicant is therefore requesting that the landlord be ordered to pay 33.44% of all the utilities that he paid during the term of this tenancy as follows:

Hydro bills, \$4090.49 X 33.44%	\$1367.86
Total	\$3826.40

The respondent testified that:

- It is his practice to always inform the upstairs tenants that they are required to pay the full utilities for the rental unit.
- The rent for the upstairs unit has been lowered by \$100.00 to cover the costs of any utilities used by the other unit in the rental property.
- The applicant has therefore actually benefited from this arrangement, because the average monthly utility bill has only been \$75.03 per month, leaving an approximate saving of \$25 per month.
- He denies that the tenant brought up the matter numerous times over the term of the tenancy and in fact the first time he can recall that applicant wanting to vary the arrangement was in an e-mail he received in the summer of 2009, just prior to submitting this application.
- Communication between the applicant and himself has been almost exclusively by e-mail, and there is no record of the applicant wanting to alter the arrangement at any time prior to the summer of 2009.

The respondent therefore believes that not only was the tenant aware of the agreement that he would pay all the utilities, but the tenant actually benefited from the agreement and therefore in no way is the agreement unconscionable.



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## Analysis

It is my decision that I will not allow this claim.

The applicant claims that when the tenancy began, he was unaware of the requirement pay all the utilities for the rental unit however I find that unlikely considering that he continued to pay the full utilities right throughout the tenancy, even though he claims he became aware of the fact early on in the tenancy.

The applicant claims that when he became aware of the requirement pay the utilities he attempted to get the landlord to change the arrangement, however prior to the summer of 2009, other than his testimony; there is no evidence to show that any attempt was ever made to change this arrangement.

Is also my finding that the agreement is not unconscionable. I accept that the landlord would likely have charged more for the rent had the tenant not agreed to pay the utilities and therefore the overall amount paid by the tenant for rent and utilities, is not excessive.

## Conclusion

This application is dismissed in full 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: November 23, 2009.

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Dispute Resolution Officer