

## DECISION

Dispute Codes      MNR, MNSD, FF

### Introduction

This matter dealt with an application by the Landlord for a monetary order for unpaid utilities, to recover the filing fee for this proceeding and to keep the Tenants' security deposit in partial payment of those amounts.

### Issues(s) to be Decided

1. Are there unpaid utilities and if so, how much?
2. Is the Landlord entitled to keep the Tenants' security deposit?

### Background and Evidence

This tenancy started on or about July 1, 2008 and ended on October 31, 2009. Rent was \$1,300.00 per month plus 2/3 of the gas and hydro for the rental property. The Tenants paid a security deposit of \$650.00 at the beginning of the tenancy.

The Parties agree that the Landlord did not give the Tenants any invoices for utilities throughout the tenancy and that the Tenants did not pay for any utilities. The Tenants said they received the bills with the Landlord's hearing package and do not dispute those amounts. The Tenants said they asked the Landlord for the bills during the tenancy but he never provided them. The Landlord claimed that he never intended or agreed to waive payment of the utilities.

### Analysis

While the Landlord's delay in seeking payment of the utilities suggests that he may have waived payment of the utilities, the Tenants did not claim that this was the case and there is no other evidence of it. Consequently, I find that there are unpaid utilities in the total amount of \$1,346.89. I order the Landlord pursuant to s. 38(4) of the Act to keep the Tenants' security deposit and accrued interest in partial payment of the utility arrears. The Landlord will receive a monetary order for the balance owing as follows:

Unpaid utilities:	\$1,346.89
Less: Security deposit:	(\$650.00)
Accrued interest:	<u>(\$4.90)</u>
Balance Owing:	\$691.99

Given the Landlord's unreasonable delay in making a demand for payment of the utilities, I find that this is not an appropriate case to award reimbursement of the filing fee and that part of the Landlord's application is dismissed.

### Conclusion

A monetary order in the amount of **\$691.99** has been issued to the Landlord and a copy of it must be served on the Tenants. If the amount is not paid by the Tenants, the Order may be filed in the Provincial (Small Claims) Court of British Columbia and enforced as an Order of that Court.

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: March 15, 2010.

---

Dispute Resolution Officer