



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## DECISION

Dispute Codes      MNR, MNDC, FF

### Introduction

This matter dealt with an application by the Landlords for a Monetary Order for unpaid utilities, for compensation for loss or damage under the Act or tenancy agreement and to recover the filing fee for this proceeding.

The Landlords said they served the Tenant with the Application and Notice of Hearing (the "hearing package") by registered mail on August 17, 2010. Based on the evidence of the Landlord, I find that the Tenant was served with the Landlord's hearing package as required by s. 89 of the Act and the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Are there utilities arrears and if so, how much?
2. Is the Landlord entitled to compensation for unpaid utilities and if so how much?

### Background and Evidence

This tenancy started on August 1, 2009 as a 6 month fixed term tenancy with an expiry date of January 31, 2010. The Landlord and Tenant verbally agreed to end the tenancy early on December 31, 2009 on the condition that the Tenant pays her share of the utility bills. The rent was \$1,200.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$600.00 on July 21, 2009.

The Landlord said that the Tenant did not pay her share of the utilities when the tenancy ended. The Landlords submitted the utility bills and how they calculated the 1/3 share of the utility bill that the Tenant is responsible for. The Landlord said the Tenant is responsible for 1/3 of the BC hydro bill of \$739.54 in the amount of \$246.51 for October 10 to December 11, 2009. As well as, 1/3 of \$750.09 for 20 days of 62 days for the BC Hydro bill for December 12 to December 31, 2009 in the amount of \$80.65 ( $\$750.09 \times \frac{1}{3} = \$250.03 \times \frac{20}{62} \text{days} = \$80.65$ ) and 1/3 of 46 days of 120 days for the Victoria City bill for \$219.28 in the amount of \$28.02 ( $\$219.28 \times \frac{1}{3} = \$73.09 \times \frac{46}{120} \text{days} = \$28.02$ ). The Landlord said their total claim is follows:

BC Hydro Bill dated December 11, 2009	\$246.51
BCV Hydro Bill dated February 11, 2010	\$ 80.65
City of Victoria Bill dated March 31, 2010	<u>\$ 28.02</u>
Total owing	<u>\$355.18</u>

In addition the Landlord said they are requesting to recover the \$50.00 filing fee for this proceeding from the Tenant.

The Tenant did not attend the conference call, but did submit written evidence. In the Tenant's evidence she says that she does not dispute that she owes for the utilities, but she disputes the amount of utilities. As the Tenant did not attend there was no testimony supporting the evidence that she submitted.

## Analysis

Section 26 says a tenant must pay rent when it is due under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement, unless the tenant has a right under this Act to deduct all or a portion of the rent.

Utilities that are specified in the tenancy agreement are considered to be part of the rent and as such the tenant must comply with section 26 of the Act and pay the utilities when they are due. The Tenant does not have an order to withhold or deduct a portion or all the utilities therefore; the utilities are overdue and unpaid.

There was contradictory evidence regarding the amount and how to calculate the amount of utilities by the Landlord and the Tenant. As the Tenant did not attend the conference call there was no testimony to support her claims. The Landlord's claims were supported by the tenancy agreement, utility bills and the Landlord's testimony. I find that the amount of the utilities is as specified in the tenancy agreement addendum #1, which says the Tenant is responsible for 1/3 of the utilities. Consequently I find in favour of the Landlords and grant them a monetary order for the unpaid utilities in the amount of \$355.18 and as the Landlord has been successful in this matter, they will receive a monetary order for the sum of \$355.18 for unpaid utilities and the \$50.00 filing fee for this proceeding in the amount of \$405.18.

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## Conclusion

A Monetary Order in the amount of \$405.18 has been issued to the Landlord. A copy of the Orders must be served on the Tenant: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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