



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes PSF, OLC

Introduction

Some 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.

Issue(s) to be Decided

This is a request for an order that the landlord to comply with the tenancy agreement and continue to supply Hydro.

Background and Evidence

The applicant testified that:

- When she agreed to sign a tenancy agreement for this rental unit she informed the landlord that she could only do so if Hydro was included in the rent.
- The landlord agreed to include Hydro and the tenancy agreement was signed which shows that Hydro is included.
- The landlord subsequently informed her that Hydro was not supposed to be included, and therefore told her it would be discontinued.

The applicant is therefore requesting an order that the landlord continue to include Hydro in the rent.

The respondent testified that:

- She did agree to include Hydro in the rent however she only did so due to a misunderstanding.
- She is a new property manager for this property and when she spoke to the owner about Hydro, she misunderstood what the owner had said and thought that the owner meant Hydro was included in this unit.
- Therefore when she signed the tenancy agreement with the tenant she did include Hydro with the rent.
- The owner subsequently informed her that Hydro is not included with this rental unit, and therefore she did inform the applicant that it would no longer be included with the rent.
- Due to her mistake the owner is willing to cover the Hydro for the months of June 2011 in July 2011 however as of August 2011 the owner is not willing to cover the Hydro.

Analysis

It is my decision that the landlords are bound by the tenancy agreement that was signed, which includes Hydro in the rent.

The respondent openly admitted that she signed an agreement with the tenant that included Hydro, and once the parties sign an agreement they cannot unilaterally change that agreement.

Section 27 of the Residential Tenancy Act states:

27 (1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

In this case since the tenant has testified that she would not have signed the tenancy agreement if Hydro was not included, it is my finding that it is a material term of the tenancy agreement.

Conclusion

I order that the landlord must continue to provide Hydro service to the tenant, included in the rent.

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: June 23, 2011.

Residential Tenancy Branch