



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ET, FF

### Introduction

This hearing dealt with an application by the landlord for an order ending this tenancy early and recovery of the filing fee paid to bring the application. Both parties participated in the conference call hearing, the tenants represented by D.G.

### Issue to be Decided

Should the tenancy be ended early?

### Background and Evidence

The tenancy began in December 2010. The rental unit is one of three units in the residential property. One unit is unoccupied and the other is occupied by the landlord. The parties agreed that prior to the beginning of the tenancy they filled out a Shelter Information form which the tenant brought to the Ministry of Housing and Social Development (the "Ministry") identifying minimal details of the tenancy agreement. A box is available on the form in which the parties could indicate whether or not utilities were included in the rent. This box on the landlord's copy of the form is blank while the tenant's copy has the "yes" box checked with an added notation, "except oil".

The landlord alleged that in September, the tenants assaulted her. The landlord provided a police file number but did not provide a police report. The tenant denied having assaulted the landlord. The landlord further alleged that the tenants were responsible to pay for hydro and that because they had failed to pay the hydro bill, hydro was cut off and she was suffering as a result of having no power. The landlord provided a handwritten tenancy agreement which provides as follows:

Hot water, cold water, hydro up to \$200/every bills tax, insurance. and big damages is paid by Landlord. Hydro after \$200.00 limitation must be paid by tenant. [reproduced as written]

The tenant testified that they understood that hydro was included in their rent and that they were only responsible to pay for oil. The tenant relied on his copy of the Shelter Information form which indicated that utilities were included.

The landlord also alleged that the tenants owed her rent, that they were growing marijuana, breeding dogs, raising chickens, had scattered their belongings all over and had people constantly coming and going from the rental unit. The tenant testified that rent was paid and denied growing marijuana, breeding dogs or raising chickens.

### Analysis

Although the landlord repeatedly referred to notices to end tenancy which had been served on the tenants, I explained that this hearing would not grant an order of possession based on notices. The landlord had the option of applying for an order of possession based on notices to end tenancy but instead chose to request an early end to tenancy and received an expedited hearing date as a result of that request.

Under section 56(2)(b) of the Act, in order to establish a claim for an early end to tenancy, the landlord must establish that “it would be *unreasonable, or unfair* to the landlord, the tenant or other occupants of the residential property, to wait for a notice to end the tenancy under section 47 to take effect” (emphasis mine).

I am not satisfied that the tenants are obligated to pay for utilities. The landlord's copy of the Shelter Information form does not indicate that the tenants are obligated to pay utilities and the relevant provision in the tenancy agreement is so unclearly written, I find that it cannot serve to obligate the tenants to pay utilities. In the absence of any certainty, I find that the landlord is obligated to pay for hydro and cannot now claim that she is suffering as a result of the tenants' failure to pay hydro bills. The police file number provided by the landlord does not provide sufficient information to enable me to determine that the landlord was assaulted by the tenants. As the tenants denied that an assault took place and as the landlord did not provide further evidence to corroborate her allegation, I find that she has not proven it on the balance of probabilities.

I further find that the landlord has provided insufficient evidence to show that the tenants are growing marijuana, breeding dogs and raising chickens and I find that if the tenants are leaving their belongings all over and entertaining multiple guests, and I make no finding on this issue, this does not present a sufficiently unreasonable or unfair situation that would justify ending a tenancy early.

Conclusion

For the reasons above, I find that the landlord has not proven that it would be unreasonable or unfair to wait for a notice to end tenancy to take effect and accordingly I dismiss the application.

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: October 06, 2011

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Residential Tenancy Branch