



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OPR, OPB, MNR, MNSD, MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for an order of possession for unpaid rent, an order of possession for breach, a monetary order for unpaid rent or utilities, to keep all or part of the security deposit, money owed or compensation due to damage or loss and recovery of the filing fee

Both parties participated in the conference call hearing.

It was confirmed that the tenants have vacated the rental unit therefore the landlord no longer requires an order of possession for unpaid rent or an order of possession for breach and these portions of the landlord's claim are hereby dismissed.

### Issue(s) to be Decided

Is the landlord entitled to any of the above under the Act.

### Background and Evidence

The landlord testified that the tenant's have not paid the outstanding utility bills that currently total \$1274.21. The landlord acknowledged that there was no written tenancy agreement in place but maintained that the tenants clearly knew the utilities to be their sole responsibility. The landlord stated that this is a single residence with no other rental units and the tenants were the sole occupants. The landlord also pointed to the fact that the tenants did make payments towards the utilities further establishing that the tenants knew the utilities were their responsibility.

The tenant testified that he knew the utilities were to be paid by them but as the tenants were evicted the tenant felt they should no longer be responsible for the utilities. The tenant also stated that he tried to pay the April 2012 rent and utilities but the landlord had refused to accept his cheque.

The tenant pointed to the fact that there was no written tenancy agreement and commented that he had never been told to pay utilities. The landlord stated that during

the tenancy copies of the utility bills had been provided to the tenants and the tenants had made partial payments towards the utilities.

The landlord stated that the rental unit is currently not occupied but that is because they are waiting for migrant workers to arrive and that could be anywhere from 1 day to 3 weeks time.

The landlord in this application is seeking \$1274.21 in unpaid utilities, \$1000.00 in anticipated utilities, \$1000.00 April 2012 rent and \$1000.00 May 2012 rent.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the landlord has met the burden of proving that they have grounds for entitlement to a monetary order for unpaid rent and utilities.

I accept the testimony of the landlord where he states the tenants knew they were responsible to pay the utilities. And although the tenant contradicted himself in the hearing, I accept the tenant's comment that he knew they were responsible to pay the utilities. I also accept that as the tenants had made payments towards the utility bills that they clearly understood the utilities to be their responsibility. The fact that the tenants were evicted from the rental property has no bearing on whether or not the tenants were responsible to pay the utilities or that being evicted had somehow extinguished their responsibility. However the landlords claim is based on the evidence before me today, not 'anticipated' costs and if there are additional outstanding utility bills the landlord will need to make a new application for that claim. Accordingly I find that the landlord is entitled to compensation in the amount of \$1274.21 for unpaid utilities.

In regards to the unpaid rent I find that the landlord has established that the April 2012 rent has not been paid. The tenant has also corroborated this fact by stating that the landlord refused the tenant's cheque for the April rent and utilities. However as the landlord is currently holding the property open in anticipation of migrant workers arriving, the landlord is not entitled to recover rent for May 2012. Accordingly I find that the landlord is entitled to compensation in the amount of \$1000.00 for unpaid April 2012 rent.

The landlord is entitled to recovery of the \$50.00 filing fee.

### Conclusion

I find that the landlord has established a monetary claim for \$2274.21 in unpaid utilities and rent. The landlord is also entitled to recovery of the \$50.00 filing fee. I order the landlord pursuant to s. 38(4) of the Act to keep the tenant's \$500.00 security deposit in

partial satisfaction of the claim and I grant the landlord a monetary order under section 67 for the balance due of **\$1824.21**.

If the amount is not paid by the tenant(s), 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: May 15, 2012

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Residential Tenancy Branch