



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, OPR, OLC, LRE, AS, O, MNR, MNDC

### Introduction

This hearing was convened in response to applications by the landlords and the tenant.

The landlords' application is seeking orders as follows:

1. For an order of possession;
2. For a monetary order for unpaid utilities;
3. To keep all or part of the security deposit; and
4. To recover the cost of filing the application.

The tenant's application is seeking orders as follows:

1. To cancel a notice to end tenancy for unpaid utilities; and
2. To have the landlord comply with the Act;
3. To suspend or set conditions on the landlord's right to enter the rental unit; and
4. To authorize a tenant to change the locks to the rental unit.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure authorizes me to dismiss unrelated disputes contained in a single application. In these circumstances both parties have indicated several matters of dispute on the Application for Dispute Resolution, the most urgent of which is the application to set aside the Notice to End Tenancy. I find that not all the claims on this Application for Dispute Resolution are sufficiently related to be determined during these proceedings. I will, therefore, only consider the tenant's request to set aside the Notice to End Tenancy for unpaid utilities and the landlord request for an order of possession and monetary order for unpaid utilities. The balances of the applications are dismissed, with leave to re-apply.

### Issue(s) to be Decided

Should the notice to end tenancy be cancelled?

Is the landlord entitled to an order of possession for unpaid utilities?

Is the landlord entitled to a monetary order for unpaid utilities?

### Background and Evidence

The tenancy began on May, 1, 2012. Rent in the amount of \$1,100.00 was payable on the first of each month. However, the economical rent was reduced to \$900.00 for work the tenant was required to perform on the property. A security deposit of \$450.00 was paid by the tenant.

The parties agreed to mutually end the tenancy effective February 28, 2013 at 1:00pm.

The landlord testified the tenant is responsible for paying three-quarters of the gas bill and the tenant has failed to pay any of those bills since September 2012. The landlord stated the payment of \$170.00, made in September 2012, is equal to three-quarters of the bills for June, July and August 2012.

The landlord stated the tenant's rental unit is 1200 square feet and there are 4 people residing the unit and the basement unit is 700 square feet and one person resides in the unit. The landlord stated it would be unreasonable to expect the basement unit to pay half the gas bills and that was not the agreement.

The landlord testified the gas bill for November 2012, was \$209.20, for December 2012, was \$249.98, for January 2013, was \$224.47 and it would be reasonable to expect February 2013, gas bill to the same as January 2013. The landlord seeks to recover three-quarters of the gas bills.

The tenant testified he is only required to pay half of the gas bill and states the payment made in September 2012, was for hydro.

On cross-examination the tenant acknowledge no hydro has been paid since June 2012.

### Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

The parties mutually agreed to end the tenancy effective February 28, 2013. Therefore, the landlord is granted an order of possession effective February 28, 2013 at 1:00 pm.

The evidence of the landlord was the tenant is required to pay three-quarters of the gas bills. The evidence of the tenant was that the amount agreed was one-half of the gas bills. Even if I accepted the tenant's version, which I do not, the tenant has not paid any of the gas bills since September 2012.

The evidence was the tenant's rental unit is 1200 square feet and there are four people occupying the unit. The basement unit is 700 square feet and is occupied by one

person. I find that it would be reasonable that the larger unit which allows more occupants would be responsible for a higher percentage of the gas bill. Further, the evidence of the landlords is supported by the payment made in September 2012 of \$170.00 and based on the gas bills for June, July and August, this amount equals approximately three-quarters of those bills.

In light of the above, I accept the landlord's version that the tenant was required to pay three-quarters of the gas bill.

The gas bills for November 2012, through to February 2013, total amount of \$908.12. I find the tenant is responsible to pay three-quarters of that amount which equals the amount of **\$681.09**.

I find that the landlord has established a total monetary claim of **\$731.09** comprised of unpaid utilities and the \$50.00 fee paid for this application.

I order that the landlord retain the deposit and interest of **\$450.00** in partial satisfaction of the claim and I grant the landlord an order under section 67 for the balance due of **\$281.09**.

As the tenant has not been successful with their application the tenant is not entitled to recover the cost of filing the application from the landlord.

### Conclusion

The parties mutually agreed to end the tenancy. The landlord is entitled to an order of possession.

The landlord is granted a monetary and may keep the security deposit in partial satisfaction of the claim and is granted an order for the balance due.

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: February 08, 2013

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Residential Tenancy Branch

