



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to section 62 of the *Residential Tenancy Act* (the “Act”) for an order that the Landlord comply with the tenancy agreement.

The Landlords and Tenants were each given full opportunity to be heard, to present evidence and to make submissions under oath.

### Issue(s) to be Decided

Is the Tenant entitled to the Landlord’s compliance with the tenancy agreement?

### Background and Evidence

The following are undisputed facts: The Parties signed a tenancy agreement for a tenancy to start on June 1, 2014. The relevant parts of Section 4(3) of the tenancy agreement provide that “the following services are the responsibility of the Tenant: electricity, cable television, internet.” Prior to signing the tenancy agreement the Tenant had occupied the unit as a roommate with the previous tenants.

The Tenant submits that the previous tenants did not tell her that gas was included in the utilities and states that she believed that the unit was heated by electricity. The Tenant submits that she discovered in August 2014 that the unit was in fact heated by gas and that the Tenant had to open a gas account. The Tenant states that she had paid at least one gas bill to date and that this is not her liability. The Tenant provided

copies of her correspondence with the Landlord in relation to the gas. The Tenant seeks an order that the Landlord provide gas to the unit.

The Landlord states that prior to the written tenancy agreement being given to the Tenant to sign they had informed the Tenant that all utilities were the Tenant's responsibility and that this included gas. The Landlord states that the Tenant was also informed by the previous tenants that the utilities included gas. The Landlord provided an email to this effect from the previous tenants. The Landlord states that the exclusion of gas from the tenancy agreement was an error or oversight and that the tenancy form was downloaded from the internet in a hurry. The Landlord states that since the tenancy agreement provided as evidence by the Tenant does not contain their signature and that the written tenancy agreement is therefore not valid.

### Analysis

Section 6 of the Act provides that the rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement. Section 62 of the Act provides that any order necessary may be made to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or comply with a tenancy agreement.

There is no dispute that the Parties intended and agreed that the Tenant would pay for utilities. The Tenant denies knowing from the previous tenants that gas was included in the utilities. The Tenant's communication evidence with the Landlord supports the Tenant's position that she was unaware of the unit being heated by gas in advance of signing the tenancy agreement. I accept the Tenant reasonably believed that the unit was heated by electricity. This was reinforced by the tenancy agreement that does not list gas as an included utility while other utilities are specifically included. Although the Landlord argues that the Tenant was aware in advance of signing the tenancy agreement that gas was included, I note that the Landlord has only provided indirect evidence on this point while the Landlord's direct evidence only speaks to "utilities". As the Landlord "held the pen" in creating the tenancy agreement that was signed by the

Tenant and despite the non-existence of the Landlord's signature on the Tenant's copy, I find that the tenancy agreement is valid and that it specifically does not include the Tenant's responsibility for gas. As the Tenant signed this agreement in good faith, I find that the Tenant is entitled to rely on the written agreement. I therefore order the Landlord to comply with the tenancy agreement and to forthwith assume responsibility for the gas costs to the Tenant's unit from the onset of the tenancy. I encourage the Landlord to reimburse the Tenant any costs paid to date for gas to the unit. Should the Landlord fail to reimburse the Tenant the Tenant is at liberty to file an application for dispute resolution to claim reimbursement of gas costs to the unit.

#### Conclusion

I order the Landlord to comply with the written tenancy agreement and assume the costs for gas to the unit.

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 30, 2014

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Residential Tenancy Branch

