



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Ltd  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes:

MNR, FF

### Introduction

This hearing was convened in response to the Landlord's Application for Dispute Resolution, in which the Landlord applied for a monetary Order for unpaid rent or utilities and to recover the fee for filing this Application for Dispute Resolution.

Both parties were represented at the hearing. They were provided with the opportunity to submit documentary evidence prior to this hearing, to present relevant oral evidence, to ask relevant questions, and to make relevant submissions.

On July 16, 2014 the Landlord submitted numerous documents to the Residential Tenancy Branch, which the Landlord wishes to rely upon as evidence. The Agent for the Landlord stated that these documents were served to the Tenant by registered mail on July 16, 2014. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

### Issue(s) to be Decided

Is the Landlord entitled to a monetary Order for unpaid utilities?

### Background and Evidence

The Landlord and the Tenant agree:

- The Tenant moved into the rental unit sometime in 2005
- The parties signed a new tenancy agreement for a tenancy that began on May 01, 2013
- The new tenancy agreement required the Tenant to pay rent of \$1,515.00 by the first day of each month
- The new tenancy agreement required the Tenant to pay the water/sewage bill for the unit.
- The tenancy ended on December 31, 2013

The Landlord submitted a copy of a utility bill for charges that accrued during the tenancy, which declares that \$1,507.76 is due by February 06, 2014. The Landlord and the Tenant agree that

the Tenant has not paid any portion of this bill. The Landlord is seeking compensation for the unpaid utility bill.

The Tenant stated that he did not pay this bill because sometime during the summer of 2013 he received a bill for approximately \$500.00. He stated that this was significantly more than the bills he had received for previous months, which were between \$80.00 and \$120.00. The Agent for the Landlord stated that she reviewed the consumption history for the rental unit and she does not believe that the history demonstrates an unusual increase in 2013. She stated that there have been some cost increases which she believes are consistent with an increase in consumption fees.

The Tenant stated that he does not know why this bill was so high but he speculates that there was a water leak somewhere on the residential property or that the water was left running while the exterior drain tiles were being replaced. He stated that after he received the unusually high bill in 2013 he noticed that a basement toilet was running continuously, although he had never noticed that prior to receiving the bill. He stated that he thinks he reported the problem with the toilet to the Landlord, although he cannot recall who he reported it to. He stated that he reported the toilet to a plumber when the plumber was in the rental unit repairing an unrelated plumbing problem. He initially stated that the plumber was in the unit to repair a leaking faucet and he then stated that the plumber may have been repairing a leaking drain in the laundry room. He stated that the plumber repaired the toilet.

The Agent for the Landlord stated that the Landlord has no record of a problem with a toilet being reported to the Landlord in 2013; that she has no record of a toilet being repaired in the rental unit in 2013; and that she has no record of a plumber repairing anything inside the rental unit in 2013.

The Landlord and the Tenant agree that there was a sewer blockage in 2013 and that the drain tile was replaced around the exterior of the home. The Tenant argued that he should not have to pay the hydro/water bill in compensation for the inconvenience of these repairs.

The Landlord submitted an email from the plumber that repaired the drain tile. The plumber stated that "months" after completing the repairs the Tenant contacted him to ask if there was an exterior leak. He declared that he tested the exterior waterline and determined that there was no exterior leak. He declared that he estimates his water usage during the repairs to be less than three hours.

The Agent for the Landlord stated that she does not know what the costs of three hours of water consumption would be, but she believes the plumber told her it would be approximately \$3.00. She stated that the Landlord is willing to reduce the cost of the bill by \$3.00.

The Tenant stated that the people who moved into the rental unit after him told him they were having leaks in the laundry room and drains. He stated that he believes that this was the subject of a dispute resolution proceeding and that these people received some form of compensation from the Landlord.

The Agent for the Landlord objected to this submission, as the Tenant had not previously informed the Landlord of his intent to raise this issue. I determined that this issue may be relevant to the issues in dispute at these proceedings and I permitted the Tenant to make this submission.

The Agent for the Landlord stated that approximately one year after this tenancy ended it was discovered that one of the toilets was leaking at the base. She stated that there was a dispute resolution proceeding as a result of this leak and that the Landlord was awarded compensation as a result of the Tenant's failure to report the leak in a timely manner.

### Analysis

On the basis of the undisputed evidence, I find that the Tenant entered into a tenancy agreement with the Landlord that required the Tenant to pay water/sewage costs accrued during the tenancy; that charges of \$1,507.76 accrued during the latter portion of the tenancy; and that the Tenant has not paid any of these charges. As the Tenant agreed to pay these costs, I find that the Tenant must pay the Landlord \$1,507.76 for hydro/sewer charges.

In determining this matter I have placed little weight on the Tenant's submission that he received a remarkably high water/sewer bill in the summer of 2013. I find that the Tenant submitted no evidence, such as a copy of previous bills, which corroborates his claim that he experienced an unusually high bill in 2013 or that refutes the Agent for the Landlord's testimony that her research does not indicate excessive consumption in 2013.

In determining this matter I have placed little weight on the Tenant's submission that in 2013 there was a toilet that was running continuously in the rental unit. I find that the Tenant submitted no evidence that corroborates his claim that the toilet was running continuously. I find that his recollection of the event was vague, given that he did not recall when he noticed the problem and he could not clearly recall why the plumber was in the rental unit. I find the lack of detail in the Tenant's testimony impairs the credibility of this testimony to some degree.

In *Bray Holdings Ltd. v. Black* BCSC 738, Victoria Registry, 001815, 3 May, 2000, the court quoted with approval the following from *Faryna v. Chorny* (1951-52), W.W.R. (N.S.) 171 (B.C.C.A.) at p.174:

*The credibility of interested witnesses, particularly in cases of conflict of evidence, cannot be gauged solely by the test of whether the personal demeanour of the particular witness carried conviction of the truth. The test must reasonably subject his story to an examination of its consistency with the probabilities that surround the current existing conditions. In short, the real test of the truth of the story of a witness in such a case must be its harmony with the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable in that place and in those conditions.*

In the circumstances before me, I find the version of events provided by the Tenant is unlikely. I find it unlikely that a plumber would be in the rental unit making repairs when the Landlord has no record of that repair; I find it unlikely that a plumber would make repairs in a rental unit without informing/charging the Landlord; and I find it highly unlikely that the Tenant would not have made reference to this problem during their communications about the need to pay the water/sewer bill.

I have placed no weight on the Tenant's argument that he should not have to pay any portion of the bill in compensation for the inconvenience of repairs being made to the exterior drain tile. Although the Tenant may be entitled to compensation for loss of quiet enjoyment of the rental unit as a result of those repairs, the Tenant's claim for loss of quiet enjoyment is not the subject

of these proceedings. I can therefore not consider loss of quiet enjoyment when determining this matter.

I have placed little weight on the leak that was discovered approximately one year after this tenancy ended. I find that the time between this leak and excessive water bill received in the summer of 2013 is simply too great to have probative value. In the event the water bill was unusually high as a result of the leaking toilet that was discovered one year later, it would be reasonable to conclude that the subsequent water bills would also have been unusually high, and there is no evidence of that. In determining this matter I note that a toilet leaking from the base is typically an entirely different issue than a toilet that is continuously running.

I find that the Landlord's application has merit and that the Landlord is entitled to recover the cost of filing this Application for Dispute Resolution.

### Conclusion

The Landlord has established a monetary claim, in the amount of \$1,557.76, which is comprised of \$1,507.76 in unpaid utilities and \$50.00 in compensation for the filing fee paid by the Landlord for this Application for Dispute Resolution. As the Agent for the Landlord has agreed to reduce this bill by \$3.00 I grant the Landlord a monetary Order for the balance of \$1,554.76. In the event that the Tenant does not comply with this Order, it may be served on the Tenant, filed with the Province of British Columbia Small Claims Court 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: December 15, 2014

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Residential Tenancy Branch

