



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Kindale Development Assc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC, O

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing.

I have given the parties the opportunity to present all relevant evidence, and to give oral testimony, and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

The issue is whether or not the tenant has been overpaying her share of the utilities, and what portion of the monthly utilities should be charged to the applicant.

### Background and Evidence

This tenant lives in a rental unit in a building that only has 1 electrical meter for the whole building and therefore the landlord bases each units portion of the utilities on the square footage of that unit.

The tenant's agent believes that her daughter has been overpaying the utilities, and that since the landlord only has one electrical meter for the whole building they do not have an accurate way of calculating how much utilities each person is using.

The landlord has testified that this tenants share of the utilities over the 14 month period of October 1, 2013 to December 8, 2014 came to a total of \$970.79 which works out to \$69.34 per month and since the amount is based on the tenants square footage of 936 ft.<sup>2</sup>, this works out to approximately \$.074 per square foot per month for one person.

The landlord also testified that they use the same calculation for two bedroom units that could possibly have two persons in them, however if there are two persons in the unit they add 25%. Therefore since the two bedroom units are approximately 1237 ft.<sup>2</sup>, the amount per month for a 2 person unit would be  $1237 \times \$0.074 = \$91.54 + 25\%(\$22.88) = \$114.42$  or \$57.21 per person.

### Analysis

Based on the above information it's my finding that the tenant has been paying approximately \$12.13 more per month on a per person basis. However since we don't know whether all two bedroom units were fully occupied, I'm willing to find that the applicant/tenant monthly utility contribution should be \$60.00.

Therefore in the 14 month period the tenant should have paid \$840.00 instead of \$970.79 and it is therefore my finding that the landlords must credit the tenant a further \$130.79.

Further since the landlord does not really have an accurate way of calculating how much utilities each tenant in the rental property uses, it's my decision that the landlord must include the cost of utilities in the applicants rent and therefore since it's my finding that the applicants monthly utility contribution should be \$60.00, and the applicants

present rent is \$460.00, it's my finding that the new rent including utilities will be set at \$520.00 per month.

Conclusion

I order that the tenants rent is hereby set at \$520.00 per month starting February 1, 2015.

Further as stated above I found that the tenant has overpaid the utilities by \$130.79 and I therefore order that the tenant may deduct that amount from the \$520.00 February 2015 rent payment, and therefore the payment for February 2015 will be \$389.21.

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: January 20, 2015

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Residential Tenancy Branch

