



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

CNC, MNDC, OLC, RR, FF

### Introduction

This hearing was scheduled in response to the Tenant's Application for Dispute Resolution, in which the Tenant applied:

- to set aside a Notice to End Tenancy for Cause;
- for a monetary Order for money owed or compensation for damage or loss;
- for an Order requiring the Landlord to comply with the *Residential Tenancy Act* (Act) or the tenancy agreement;
- for authority to reduce the rent; and
- to recover the fee for filing this Application for Dispute Resolution.

At the outset of the hearing the Tenant withdrew the application to set aside a Notice to End Tenancy for Cause, as the parties have reached an agreement regarding continuing the tenancy. The Landlord acknowledged that the parties have reached an agreement regarding continuing the tenancy and he stated that he does not intend to enforce the Notice to End Tenancy that is the subject of these proceedings.

The Tenant also withdrew his application for an Order requiring the Landlord to return a cable box.

The Tenant stated that on November 01, 2015 the Application for Dispute Resolution and the Notice of Hearing were personally served to the Landlord. The Landlord acknowledged receipt of these documents.

On October 13, 2015 the Tenant submitted two pages of evidence to Residential Tenancy Branch, which he stated was personally served to the Landlord on October 13, 2015. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On November 13, 2015 the Tenant submitted 38 pages of evidence to Residential Tenancy Branch, which he stated was personally served to the Landlord on November 13, 2015. The Landlord acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

On November 04, 2015 the Landlord submitted one page of evidence to Residential Tenancy Branch, which he stated was personally served to the Tenant on November 04, 2015. The Tenant acknowledged receipt of this document and it was accepted as evidence for these proceedings.

On November 13, 2015 the Landlord submitted nine pages of evidence to Residential Tenancy Branch, which he stated was personally served to the Tenant on November 13, 2015. The Tenant acknowledged receipt of these documents and they were accepted as evidence for these proceedings.

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

#### Issue(s) to be Decided

Is the Tenant entitled to reduce his rent in compensation for hydro/gas expenses which have not been paid by the Landlord during the tenancy?

Is the Tenant entitled to a key to the mail box that is attached to the exterior of the residential complex?

#### Background and Evidence

The Landlord and the Tenant agree that:

- the Tenant lives on the upper portion of this residential complex;
- there is a suite in the lower portion of the residential complex;
- the tenancy began on August 01, 2013;
- the Tenant is currently paying rent of \$2,250.00, which is due by the first day of each month;
- when the tenancy began the suite in the lower portion of the residential complex was being occupied by a third party;
- the Landlord moved into the lower portion of the residential complex in September or October of 2014;
- the hydro and gas bills for the entire residential complex are in the name of the Tenant;
- when the lower suite was being occupied by a third party the Tenant was paying 2/3 of the hydro and gas bills and the third party was paying 1/3 of the bills;
- when the Landlord moved into the rental unit they were unable to reach an agreement on how much the Landlord would pay for gas/hydro; and
- on November 03, 2015 the parties agreed that the Tenant would pay 4/5 of the gas/hydro bills and that the Landlord would pay 1/5 of the bills.

The Landlord stated that he is now willing to pay 1/5 of all the hydro and gas bills that

the Tenant has submitted in evidence. The Tenant stated that he would be satisfied with that resolution.

The Tenant stated that he would prefer that the hydro/gas bills are not in his name. The Landlord stated that he would prefer that the bills stay in the Tenant's name, as he is away from home frequently and may not be able to pay the bills on time.

The Tenant is seeking an Order requiring the Landlord to provide him with a key to the mail box.

The Landlord and the Tenant agree that:

- at the start of this tenancy mail was delivered through a mail slot, which the Tenant could easily access;
- in September of 2015 the Landlord installed a locking mail box on the exterior of the residential complex;
- mail for the lower suite and the rental unit is delivered to this locking mail box; and
- the Landlord has never provided the Tenant with a key to the locking mail box.

The Tenant stated that as a result of the change in mail delivery service he has had his mail redirected to his business office. He submitted documentation that shows he paid \$86.05 to have his mail redirected between October 01, 2015 and September 30, 2016.

### Analysis

On the basis of the undisputed evidence, I find that the parties have agreed that the Tenant will pay 4/5 of the gas/hydro bills and that the Landlord will pay 1/5 of the bills. I therefore find that they are both obligated to comply with this agreement until the end of the tenancy or until they mutually agree to amend this agreement.

The Tenant has submitted 13 gas bills, which total \$1,256.30 and 7 electrical utility bills, which total \$1,657.89. As the Landlord has agreed to pay 1/5 of all the hydro and gas bills that the Tenant has submitted in evidence, I find that the Landlord owes the Tenant \$582.84 for gas and hydro.

Section 32(1) of the *Act* requires a landlord to provide and maintain residential property in a state of repair that complies with health, safety, and housing standards required by law and, having regard to the age, character, and location of the rental unit, makes it suitable for occupation by a tenant. In my view this requires a landlord to ensure the rental unit is provided with gas and hydro service, even if the tenant is required to pay for all, or part, of those services.

Residential Tenancy Branch Policy Guideline #1, with which I concur, suggests that a term in a tenancy agreement that requires a tenant to put gas or electricity bills in the tenant's name when the bills are for premises the tenant does not occupy is likely to be

found to be unconscionable. In these circumstances the Tenant has been paying the full costs of the hydro and gas bills for the entire residential complex since the Landlord moved into the rental unit, which I find to be grossly unfair to the Tenant.

I therefore order the Landlord to transfer the hydro and gas bills into his name no later than December 31, 2015.

In the event that the hydro and gas bills have not been transferred into the Landlord's name by December 31, 2015, I authorize the Tenant to reduce the monthly rent by \$50.00 beginning on January 01, 2016 and continuing until such time as the bills have been transferred into the Landlord's name. This rent reduction serves to compensate the Tenant for the inconvenience of paying the bill and collecting the amount owing from the Landlord. This is over and above the rent reduction the Tenant is authorized to make in my concluding remarks.

The Tenant is not being awarded a rent reduction for any period prior to January 01, 2016 as the Tenant has not previously asked the Landlord to change the bills into his name.

Section 27(1) of the *Act* stipulates that a landlord may not terminate or restrict an essential service or a service that is a material term of the tenancy. As the Tenant has the ability to have mail delivered to an alternate location and currently has his mail delivered to his business office, I cannot conclude that having mail delivered to a residential address is an essential service or a material term of the tenancy.

Section 27(2) of the *Act* stipulates that a landlord may terminate a service that is not an essential service or a material term of the tenancy only if the landlord has provided written notice of the termination/restriction in the approved form and only if the landlord reduces the rent by an amount that is equivalent to the reduction in the value of the tenancy as a result of the termination/restriction.

As the Landlord did not provide the Tenant with notice of his intent to change the method of mail deliver in the approved form and he did not provide the Tenant with a key to the locking mail box he installed to replace the existing mail slot, I find that the Landlord did not have the right to change the method of mail delivery. I therefore Order the Landlord to immediately provide the Tenant with a key to the locking mail box or to immediately install a second mail box that enables Canada Post to deliver mail to the rental unit. The Landlord retains the right to alter the method of mail delivery after he provides the Tenant with notice of the change in the approved form, but only if he reduces the monthly rent to compensate the Tenant for the reduced value of the tenancy.

Although in the hearing I informed the parties I would not be granting the Tenant compensation for the cost of redirecting his mail, as he did not specifically apply for compensation of that nature, I find that the Tenant is entitled to compensation for the reduction in the value of his tenancy as a result in the change to the method of mail

delivery. In my view the change in mail delivery service reduced the value of this tenancy by \$86.05 per year, which reflects the cost of redirecting the mail.

In my view the change in mail delivery service reduced the value of this tenancy by an additional \$50.00 per month, which arises from the time and inconvenience of picking up mail in an alternate location. As the mail delivery service was changed in September of 2015 and has not yet been corrected, I find that the Tenant is entitled to compensation of \$150.00 for the months of September, October, and November.

In the event the Tenant has not been provided with a key to the mail box or an alternate mail box by December 01, 2015, the Tenant is authorized to reduce one monthly rent payment by \$50.00, effective January 01, 2016, and continuing each month until such time as the a key or second mail box has been provided. This is over and above the rent reduction the Tenant is authorized to make in my concluding remarks.

I find that the Tenant's Application for Dispute Resolution has merit and that he is entitled to recover the fee for filing this Application.

### Conclusion

The Tenant has established a monetary claim of \$868.89, which is comprised of \$582.84 for gas and hydro, \$236.05 for the reduced value of the tenancy as a result of the change in mail delivery, and \$50.00 for the cost of filing this Application for Dispute Resolution. Pursuant to section 72(2) of the *Act*, I authorize the Tenant to reduce one monthly rent payment by \$868.89 in full satisfaction of this monetary claim.

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: November 30, 2015

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Residential Tenancy Branch

