



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, FF

### Introduction

This hearing dealt with the landlord's application pursuant to the *Residential Tenancy Act* (the Act) for:

- a monetary order for unpaid utilities pursuant to section 67; and
- authorization to recover the filing fee for this application from the tenant pursuant to section 72.

The landlord attended the hearing by conference call and gave undisputed affirmed testimony. The tenant did not attend or submit any documentary evidence. The landlord stated that the tenant was served with the notice of hearing package and the submitted documentary evidence by Canada Post Registered Mail on September 15, 2015. The landlord has submitted a copy of the Canada Post Customer Tracking Receipt as confirmation of service. The landlord stated that the package was returned by Canada Post as "unclaimed". The landlord clarified that the packages were sent to the address provided by the tenant in the condition inspection report during the move-out. I accept the undisputed affirmed testimony of the landlord and find that the tenant was properly served with the notice of hearing and the submitted documentary package by Canada Post Registered Mail pursuant to sections 88 and 89 of the Act. Although the tenant did not claim the package, I find that the tenant having provided his forwarding address in writing during the condition inspection report for the move-out is deemed to have received the package as per section 90 of the Act.

### Preliminary Issue

The landlord wished to amend the monetary claim to increase the amount from \$347.50 to \$376.27. The landlord clarified that the increase in the monetary claim was because the landlord failed to pay the original \$347.50 utility charge from the municipality. The landlord stated that after being notified by the municipality of the unpaid utilities the landlord was to have paid the \$347.50 for which a discount would be given to the

landlord. The landlord did not pay the amount owed and was subject to the full amount of \$376.27, a difference of \$29.02. For the purposes of the landlord's application, I allow the landlord's amended monetary claim for \$376.27.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for unpaid utilities and recovery of the filing fee?

### Background and Evidence

This tenancy began on December 1, 2012 on a month-to-month basis as shown by the submitted copy of the signed tenancy agreement dated December 6, 2012. The monthly rent was \$1,000.00 payable on the 1<sup>st</sup> day of each month. A security deposit of \$500.00 and a pet damage deposit of \$250.00 were paid on January 1, 2013. The landlord stated that the tenant's forwarding address in writing was provided during the condition inspection report for the move-out. The landlord stated that the tenancy ended on November 30, 2014.

The landlord seeks a monetary claim of \$376.27 which consists of unpaid utilities. The landlord relies on a letter dated January 8, 2015 from the local municipality which states that a utility account (in the name of the tenant) has been finalized as of February 12, 2014 and that a final bill for service of \$376.27 is overdue. The landlord stated that the tenant has since failed to pay the utilities. The landlord stated that the terms of the tenancy agreement show that the tenant was responsible for payment of his own utilities and that the account was in the name of the tenant as well.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. In this case, the onus is on the landlord to prove on the balance of probabilities that the tenant caused the damage and that it was beyond reasonable wear and tear that could be expected for a rental unit of this age.

I accept the undisputed affirmed evidence of the landlord and find that a claim has been established of \$376.27 for unpaid utilities which is supported by the landlord's submission of the letter from the local municipality for owed utilities which was not paid for by the tenant.

As the landlord was successful in this application, I find that the landlord is entitled to recover the \$50.00 filing fee paid for this application.

### Conclusion

I grant a monetary order to the landlord in the amount of \$426.27 which consists of the \$376.27 amended monetary claim and the recovery of the \$50.00 filing fee.

The landlord is provided with this order in the above terms and the tenant(s) must be served with this order as soon as possible. Should the tenant(s) fail to comply with these orders, this order may be filed in the Small Claims Division of the Provincial 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 07, 2015

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Residential Tenancy Branch

