



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding SANDHILL PROPERTIES INC  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the landlord's application for a Monetary Order for unpaid rent or utilities; for an Order permitting the landlord to keep all or part of the tenants' security deposit; for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act* (*Act*), regulations or tenancy agreement; and to recover the filing fee from the tenants for the cost of this application.

At the outset of the hearing the landlord's agent withdraw their claim for an Order to keep all or part of the tenants' security deposit and for a Monetary Order for money owed or compensation for damage or loss under the *Act*, regulations or tenancy agreement.

Service of the hearing documents, by the landlord to the tenants, was done in accordance with section 89 of the *Act*; served by registered mail on or about December 23, 2015. The tenants were deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The landlord's agent (the landlord) appeared, gave sworn testimony, was provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the tenants, despite being served notice of this hearing in

accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

Issue(s) to be Decided

Is the landlord entitled to a Monetary Order to recover unpaid utilities?

Background and Evidence

The landlord testified that this tenancy started on July 28, 2012 for a fixed term tenancy which expired on July 28, 2014, thereafter, continuing as a month to month tenancy. Rent for this unit was \$1,600.00 per month due on the 28<sup>th</sup> day of each month. Utilities were not included in the rent.

The landlord testified that originally the tenants had city utilities in their name throughout 2014; however, the owner later switched the utilities into the landlord's name in 2015. The tenants failed to pay utilities for 2014 or 2015. The landlord refers to utility bills and demands which the landlord testified he has sent to the tenants with a written demand for payment within 30 days. The landlord testified that the tenants were served a 10 Day Notice to End Tenancy for unpaid utilities of \$3,113.39 on August 19, 2015. This Notice was served upon the tenants by registered mail and had an effective date of August 31, 2015. The tenants had five days to either pay the outstanding utilities or file an application to dispute the Notice. The landlord testified that the tenants did not pay any utilities and vacated the rental unit on August 31, 2015.

The landlord testified that the unpaid utilities have been added to the owner's property tax bill for 2015 and a total amount of \$3,113.39 has been paid to the city for utilities. The landlord referred to the property tax notice provided in documentary evidence confirming this. The landlord seeks a Monetary Order to recover this amount plus the filing fee of \$50.00.

### Analysis

After careful consideration of the undisputed documentary evidence before me I find as follows: In regards to the utility claim, section 46(6) states that a Notice based on utilities can be issued only if a tenancy agreement requires the tenants to pay utility charges to the landlord, and the utility charges are unpaid more than 30 days after the tenants receive a written demand for payment of them. If the above conditions are met then a landlord would be permitted to treat unpaid utility charges as unpaid rent and give notice on this basis. The tenancy agreement shows that utilities were not included in the rent and therefore the tenants have a responsibility to pay the utilities regardless of whose name the utility account is in.

I am satisfied from the undisputed evidence before me that the tenants have been given copies of the utility bills and a written demand for payment. Furthermore, the tenants were also served a 10 Day Notice to End Tenancy for unpaid utilities clearly setting out the amount owed. These utilities were then added to the owner's property tax and have since been paid. I therefore find the landlord is entitled to recover the amount paid on behalf of the tenants of **\$3,113.39** and a Monetary Order has been issued to the landlord for this amount pursuant to s. 67 of the *Act*.

As the landlord's claim has merit I find the landlord is also entitled to recover the filing fee of **\$50.00** pursuant to s. 72(1) of the *Act*. This amount has been included on the Monetary Order.

### Conclusion

I HEREBY FIND in favor of the landlord's monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$3,163.39**. The Order must be served on the respondents. Should the respondents fail to comply with the Order, the Order may be enforced through the Provincial (Small Claims) Court of British Columbia 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: July 25, 2016

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Residential Tenancy Branch