



# 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 filed March 16, 2017 under the *Residential Tenancy Act* (the "Act") for a monetary order for unpaid rent and for recovery of the application filing fee.

AT attended the hearing on behalf of both tenants. The landlord also attended. Both parties had opportunity to be heard, to present affirmed testimony and documentary evidence, to make submissions and to call witnesses.

Service of the landlord's application and notice of hearing was not at issue.

### Issue(s) to be Decided

Is the landlord entitled to a monetary award for unpaid rent?

Is the landlord entitled to recover the filing fee for this application from the tenants?

### Background and Evidence

A copy of the written tenancy agreement was in evidence. It is signed by both of the tenants. This tenancy began in March of 2016 for a term ending February 28, 2017. Although the tenancy agreement suggests that the tenancy could become a month to month tenancy after the end of the term, the tenancy ended on February 28, 2017.

This is a standard Residential Tenancy Branch tenancy agreement. Section 3(b) reaches "What is included in the rent: (*Check only those that are included and provide additional information, if needed.*)" The boxes for water, electricity, heat, furniture, cablevision, laundry, sheets and towels, storage, and garbage collection are not checked. The boxes for stove/oven, dishwasher, refrigerator, carpets, window coverings, and parking are checked.

Monthly rent was \$1,700.00 and it was paid in one lump sum at the beginning of the tenancy. A security deposit of \$800.00 was also paid at the beginning of the tenancy. The landlord returned the security deposit when the tenants vacated the rental unit.

The landlord claims for the cost of utilities over the term of the tenancy. He testified that he and the tenant had an oral agreement that the utilities account would remain in the landlord's name. The landlord did not ask the tenants for the cost of the utilities over the term of the tenancy. At the end of the tenancy, after he had refunded the tenants their security deposit, the tenant received a pile of unopened mail. At that point the landlord saw the amount that was owing for utilities over the term of the tenancy. He asked the tenants to reimburse him and they said "it's too late."

The landlord advised that the utilities were not disconnected for nonpayment because the amount owing was transferred to his property tax bill. The landlord submitted two utilities bill and a Statement of Adjustments that together evidenced the cost of utilities over the period of the tenancy, totalling \$810.85.

The tenant alleged in response that the landlord had breached an agreement that the tenants would have the opportunity to purchase the rental unit after the term of the tenancy. He testified that there was no agreement that the tenants would pay the utilities. He said that he knows the landlord received his mail until approximately August, because he delivered it to him, and the landlord therefore cannot complain that he was not aware of the outstanding accounts until after the tenancy ended. He also suggested the landlord should have had the utilities account transferred into the tenants' names. He stated that the landlord refunded the security deposit.

The tenant noted that the tenancy agreement does not indicate that other things, like storage and laundry, are included, but storage and laundry were in fact available without additional charge. The tenant submitted the same analysis should be applied to the utilities.

The tenant stated that although he signed the tenancy agreement, he was not aware that utilities were not included, because the landlord took the signed copy of the agreement in order to photocopy it, and did not return it to the tenants until they asked for it. The tenant said they did not have a copy of the agreement until about December, 2016. The landlord in response says this is not the case and that he provided the tenants with a copy by email within a week or month of signature.

The tenant also stated that he "would never have thought" to look at the boxes that were checked or not checked on the tenancy agreement.

### Analysis

Both of the named tenants signed the tenancy agreement. It states clearly that utilities are not included. By signing the agreement, the tenants understood, or should have understood, that they would be paying their own utilities, whether through the landlord's utilities account or by

opening their own account. The tenant's not having looked carefully at which boxes were checked and which were not does not mean that he has not committed himself.

Additionally, it would be unfair for the landlord to bear the cost of utilities which the tenants consumed in this circumstance.

Although the landlord must give a copy of the tenancy agreement to the tenants, the fact that the tenants may not have immediately or for most of the term of their tenancy had possession of the signed agreement does not mean they are not obligated to meet their commitments.

Nor does the landlord's failure to ask for the amount owing in a timely way mean the landlord is not entitled to have them reimbursed, as long as the time limits set out in the Act have not been exceeded.

Based on the above, I find that the landlord is entitled to the amount claimed. As the landlord has been successful in this application, he is also entitled to recover the \$100.00 filing fee from the tenants.

#### Conclusion

Pursuant to section 67 of the Act, I issue a monetary award in the landlord's favour for \$910.85, inclusive of the application filing fee.

The tenants must be served with this order as soon as possible. Should the tenants fail to comply with the order, it 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 s. 9.1(1) of the Act and is final and binding pursuant to s. 77 unless otherwise indicated.

Dated: August 11, 2017

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Residential Tenancy Branch