



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LES INVESTISSEMENTS IMMOBILIERES and  
[tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      OLC

### Introduction

On January 24, 2019, the Tenant submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an Order for the Landlord to comply with the Act. The matter was set for a participatory hearing via conference call.

The Landlord’s Representative (the “Landlord”) and the Tenant attended the hearing and provided affirmed testimony. They were provided the opportunity to present their relevant oral, written and documentary evidence and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue to be Decided

Should the Tenant be granted an Order to have the Landlord comply with the Act and not reduce the Tenant’s rent as a result of terminating a service, pursuant to Section 27 and 62 of the Act?

### Background and Evidence

The Tenant and the Landlord agreed on the following terms of the tenancy:

The month-to-month tenancy began on January 1, 2016. The monthly rent is \$1,025.00 and includes the service of hydroelectricity. The Landlord collected and still holds a

\$470.00 security deposit. A copy of the Tenancy Agreement was not submitted as evidence.

The Tenant testified that he received a Notice Terminating or Restricting a Service or Facility (the "Notice"), from the Landlord at the end of October 2018, that stated the service of Hydro Utilities (electricity and heat) would be terminated on January 1, 2019. As a result of the termination, the Tenant's rent would be reduced by \$80.00 a month. The Notice was signed by a representative for the Landlord and dated, October 26, 2018.

The Tenant did not agree to change the term of his Tenancy Agreement that included hydro as an included service of his monthly rent payment. The Tenant believed that the utility of hydroelectricity was an essential service and that the Landlord could not terminate the service.

The Landlord testified that they were making a policy change with all their tenants where the Landlord, after proper notice, would amend the Tenancy Agreements and have the tenants open their own hydro accounts. The Landlord would reduce the tenants' rent as a result of terminating their hydro service.

The Landlord stated that they would like the Tenant to take responsibility for his own hydro account. The Landlord said that they intended on ending their account for the rental unit. The Landlord agreed that hydro was a service that was essential to the Tenant's use of the rental unit as a living accommodation; however, that the Tenant still had the option to open his own account and obtain hydro services. Furthermore, that the Landlord had proposed a fair discount of the monthly rent, based on the monthly averages of hydro fees over the last year.

### Analysis

Section 27 of the Act examines the issue of services which may or may not be terminated by a landlord. It states in section 27(1) as follows, "A landlord must not terminate or restrict a service or facility if the service or facility is essential to the tenant's use of the rental unit as living accommodation, or providing the service is a material term of the tenancy agreement."

I accept that both the Tenant and the Landlord agreed that the service of hydro (electricity and heat) is essential to the Tenant's use of the rental unit. I find that both

parties agreed that the service of hydro is included in the monthly rent, as noted in the Tenancy Agreement.

After considering the evidence and applying Section 27(1)(a) of the Act to the circumstances, I find that the Landlord must not terminate the essential service of hydroelectricity to the Tenant.

As mentioned during the hearing, if the Landlord was attempting, for example, to terminate the service or facility of a swimming pool to the Tenant and subsequently reduced the rent in an amount that is equivalent to the reduction in the value of the terminated service, this would be in accordance with Section 27(2) of the Act.

However, as hydroelectricity is an essential service, I find the Landlord does not have the option to give 30 days' notice and reduce the rent.

### Conclusion

Pursuant to Section 62 of the Act, I order the Landlord to maintain the service of hydroelectricity to the rental unit, in accordance with the Tenancy Agreement and Section 27 of the Act.

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: March 08, 2019

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Residential Tenancy Branch