



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OLC, FFT

### Introduction

This hearing was convened in response to an application by the Tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for the Landlord to comply - Section 62; and
2. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is hydro included in the rent amount payable?

Are the Tenants entitled to recovery of the filing fee?

### Background and Evidence

The following are agreed facts: The tenancy under written agreement started August 1, 2018. Rent of \$1,400.00 was payable on the first day of each month. Although the tenancy agreement provides that hydro is not included in the rent there are no details for the payment of hydro costs. The unit is a lower unit of a house that was sold to the new Landlord who moved into the upper unit of the house in September 2019. The Parties then signed a tenancy agreement for a start date of May 14, 2020. There was no change in the rental terms.

The Tenant states that on the first agreement the original landlord and tenants reached a verbal agreement that hydro was included in the rent. The Tenant states that when the new Landlord took over and when the new tenancy agreement was presented there was no discussion of any terms of the rent or hydro costs and the Tenants were told the terms would stay the same. The Tenant states that the Landlord is now telling the Tenants to pay a portion of the hydro costs. The Tenant argues that there is no agreement to pay hydro costs and that these costs are included in the rent. The Landlord agrees that no discussions took place with the Tenants about the payment of hydro. The Landlord states that they were informed by the previous owner's agent that the Tenants were paying the hydro costs on a yearly basis but that no details of any amount of costs were provided. The Landlord argues that it may charge the Tenants hydro costs over the rent payable. The Landlord states that it determined the Tenants' hydro costs based on the square footage of the unit.

#### Analysis

Section 6(3)(c) of the Act provides that a term of a tenancy agreement is not enforceable if the term is not expressed in a manner that clearly communicates the rights and obligations under it. Although the tenancy agreement provides that hydro is not included in the rent as there are no terms for the payment of hydro to the Landlord and as the Landlord lives in the upper unit of the house, I find that the term excluding hydro costs from being included in the rent is not enforceable. I find that the rent therefore includes hydro and the Landlord may not seek extra hydro costs from the Tenants. I order the Landlord to comply with the tenancy agreement by including hydro in the rent.

As the Tenants' claim has been successful, I find that the Tenants are entitled to recovery of the **\$100.00** filing fee and the Tenants may deduct this amount from future rent payable in full satisfaction of this claim.

Conclusion

The tenancy agreement term excluding hydro costs from the rent is not enforceable.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims 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 Act.

Dated: February 16, 2021

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Residential Tenancy Branch