



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ERP, OLC, MNDC

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenant for an order that the landlords make emergency repairs for health or safety reasons; for an order that the landlords comply with the *Act*, regulation or tenancy agreement; and for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement.

The tenant and one of the named landlords attended the conference call hearing, and the landlord called two witnesses. The parties and the witnesses gave affirmed testimony, and the parties were given an opportunity to cross examine each other and the witnesses on the evidence and testimony provided.

During the course of the hearing, the tenant stated that the landlord's evidence package was not received by the tenant. The landlord testified that the documents were served, and called a witness who testified to attending at the rental unit on December 11, 2012. The witness testified that no answer was received to a knock on the door, and the witness placed the documents in the mailbox of the rental unit on that date. I am satisfied that the tenant has been served with the evidence in accordance with the *Residential Tenancy Act*.

No other issues with respect to service or delivery of documents or evidence were raised, and the tenant also provided evidentiary material to the landlords and to the Residential Tenancy Branch.

All evidence and testimony provided has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Is the tenant's application for an order that the landlords make emergency repairs for health or safety reasons justified in the circumstances?

- Is the tenant's application for an order that the landlords comply with the *Act*, regulation or tenancy agreement justified in the circumstances?
- Has the tenant established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement?

### Background and Evidence

The tenant testified that this month-to-month tenancy was to commence on August 1, 2011, however the tenant actually moved into the rental unit on July 15, 2011, and the tenant still resides in the rental unit. Rent in the amount of \$1,250.00 per month is payable in advance on the 1<sup>st</sup> day of each month and there are no rental arrears. The tenant testified that the tenant rented a different unit from the same landlords previously, and during that tenancy, on December 1, 2009, the landlords collected a security deposit in the amount of \$500.00 as well as a pet damage deposit in the amount of \$400.00. Both deposits were carried over to this rental unit. The tenant testified that the landlords did not prepare a tenancy agreement, and the tenant did not sign a tenancy agreement for this rental unit.

The tenant further testified that the tenant was able to have the electricity for the rental unit put in the tenant's name, but the gas company would not allow it. The gas company had told the tenant that the previous 3 tenants didn't pay their gas bill so it had to be in the landlords' name. The tenant told the landlords at the outset of this tenancy who said they would take care of it. Nothing more was ever mentioned. Then in October, 2012 the tenant received a letter from the gas company saying that there was no account for the rental unit address. The tenant called the gas company who again advised that the account could not be placed in the tenant's name; it had to be in the owners' names. Subsequently, the gas company turned off the gas on November 20, 2012 and the tenant has no heat or hot water as a result.

The tenant further testified that the landlords had advised that all was okay with the gas company, but when the tenant called the gas company, they agreed all was okay but the tenant would have to pay the last 2 years of bills, and the tenant hasn't even resided in the rental unit for 2 years. The tenant has not received a bill from the gas company or from the landlords during the 1 year and 3 month tenancy.

The tenant also provided copies of emails exchanged between the tenant and a representative for the gas company. The tenant's email states that a notice was found on the door, and the tenant wanted to get the gas in the tenant's name but was told that because of the past tenants, it has to go into the owners' name. The email asks for the

gas to be hooked up in the tenant's name. The email is not dated, but the tenant has provided a response email from the gas company dated October 27, 2012, which states that the company cannot set up a gas account under the tenant's name, and the landlord/owner has to set up the account.

The tenant has purchased 5 space heaters for the 5 bedrooms, which the tenant claims back from the landlords at \$52.88 each, as well as \$360.00 for wood purchased in November, 2012 for the fireplace. The fireplace now heats the rest of the house, and the tenant testified that the wood was purchased from an on a local on-line advertisement. Receipts for the cost of the space heaters have been provided, but no receipts for firewood have been provided.

The tenant further claims \$212.02 for the increased cost of electricity to run the space heaters, and has provided an electric bill showing consumption over the last year, and testified that the claimed amount is prorated from previous usage as shown on that bill.

The tenant also claims \$1,166.48 for 28 days of rent at \$41.66 per day for having no gas, and \$99.00 for taking the tenant's 8 children to the swimming pool for showers 2 or 3 times per week because the rental unit has no hot water.

The landlord testified that the tenancy began on July 15, 2011 and the tenant paid a security deposit of \$625.00. Further, there is a tenancy agreement, which was provided for this hearing. The tenancy agreement clearly shows that electricity and gas are not included in the rent.

The landlord further testified that if there is a portion of the outstanding gas bill that is not the responsibility of the tenant, the landlords would pay that portion. The gas bill can go into the tenant's name and the tenant must open that account and pay the gas bill.

The landlord called a representative from the gas company as a witness, who testified that no account has existed on the rental unit address since June 30, 2011. On August 28, 2012 an Application Notice was sent to the rental unit. The witness acknowledged that the tenant had applied for an account on July 15, 2012 but the account was not set up. The tenant was asked to fax a tenancy agreement to the gas company, but the tenant stated that there wasn't a written tenancy agreement. The tenant was told to discuss it with the landlord who should be responsible for previous bills, but no amount

was given. The witness stated that it is not known how much is owed on the previous account; it would be billed to whosever name the account is placed in.

### Analysis

I have reviewed the tenancy agreement, and I agree with the landlord that it is clear that gas and electricity are not included in the rent. I have also compared the signature of the tenant on the tenancy agreement provided by the landlord, and I find that the signature matches the signature on the Tenant's Application for Dispute Resolution.

In the circumstances, I cannot find that the tenant has established that the landlords ought to be ordered to comply with the *Act*, regulation or tenancy agreement, or that the landlords ought to be ordered to make emergency repairs for health or safety reasons.

The *Residential Tenancy Act* provides that if a party breaches a term of the tenancy agreement, the other party may be ordered to pay for damages that result from that breach. The evidence and testimony before me do not substantiate that the landlords have breached any terms of the tenancy agreement or the *Act*, and the tenant has failed to establish a monetary claim as against the landlords.

### Conclusion

For the reasons set out above, the tenant's application is hereby dismissed without leave to reapply.

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 18, 2012.

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Residential Tenancy Branch