

BEFORE THE PUBLIC SERVICE COMMISSION OF THE STATE OF MISSOURI

James Dudley)

Pro Se)

v.)

Missouri Gas Energy)

Respondent)

Case No. GC-2004-0216

FILED

NOV 03 2004

Complaint Answer To MGE Motion for Rehearing

Missouri Public
Service Commission

Comes Now James Dudley complainant pursuant to RSMo. # 386.500 and CSR 240-2.160, respectfully asks that the Commission to denied MGE motion for rehearing. .

For the reasons stated herein the Report and Order is just, reasonable, and supported by competent evidence upon MGE tariffs rules and the law. For the following reasons and in the following respects:

1. MGE tariffs made clearly that MGE could not make Mr. Dudley responsible for a tenant bill.
2. The rule of law 704.4, 11:74, C.J.S. 369. states that the utilities is the responsibility of the tenant. Ex.# 1.
3. Mr. Dudley had gas service in his name from July – April and that bill was a \$104 for a year. Ex #4 and schedule 2
4. Mr. Dudley had never advised MGE or anyone else that he would be responsible for any tenant bill

WHEREFORE: James Dudley, Complainant respectfully requests the
Commission not to grant a rehearing upon that issue.

Respectfully Submitted

A handwritten signature in cursive script, appearing to read "James Dudley", is written over a horizontal line.

James Dudley
4247 Agnes
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(816) 682-1689

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CERTIFICATE OF MAILING

I hereby certify on this 1 day of Nov 2004 that a copy of the foregoing was mailed or hand delivered to:

**THE SECRETARY OF THE COMMISSION
OF MISSOURI PUBLIC SERVICE COMMISSION
PO BOX 360
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**MISSOURI PUBLIC SERVICE COMMISSION
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**DEAN L. COOPER
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ATTORNEYS FOR MISSOURI GAS ENERGY**

A handwritten signature in black ink, appearing to read "James Dudley", written over a horizontal line.

James Dudley

§ 11:73 HVAC System—Landlord's Responsibility

HVAC System. Landlord shall, at its expense, before commencement of the term of this Lease, have the air conditioning and heating equipment serving the premises inspected and placed in good operating condition and shall furnish to Tenant a written report from a reputable heating and air conditioning contractor certifying that such equipment is in good operating condition and adequate in capacity. Upon Landlord's failure to do so, Tenant may, at its option, cause the heating and air conditioning equipment placed in good operating condition and deduct the reasonable expense thereof from the rent.

The heating and air conditioning equipment will be maintained by Landlord at its expense. Should replacement of heating or air conditioning equipment become necessary through ordinary wear and tear or otherwise, Landlord, at its expense, agrees to replace same with another or others of at least equal efficiency and capacity to present equipment.

AUTHOR'S COMMENTS

For a small retail tenant, this type of clause is of extreme importance and the issue should always be addressed and expressly agreed on.

Research References

C.J.S. Landlord and Tenant § 369.
West's Key No. Digests, Landlord and Tenant ¶152.

§ 11:74 Utilities—Tenant's Responsibility

Utilities. Tenant shall furnish and pay for all electricity, gas, water, trash, and any services or utilities used on or assessed against the Premises, including Tenant's pro rata share of trash removal. Tenant shall make its own arrangements for such utilities to be billed directly to Tenant. No diminution or abatement of rent or other compensation shall or will be claimed by Tenant as a result of, nor shall this Lease or any of the obligations of Tenant be affected or reduced by reason of, any interruption, curtailment, or suspension of utilities or services to the Premises. If water service is not separately metered to the Premises, the following shall apply:

(a) Landlord shall furnish cold water to the Premises for the normal use of the restroom located on the Premises.

(b) Tenant shall pay its proportionate share of the cost of water service for the portion of the building where water service is not directly and separately metered to the tenants. Tenant's proportionate share shall be based on the rentable square feet in the Premises as compared to the total rentable square feet in the portion of the Building where

water service is not directly and separately metered to the tenants. Periodically, Landlord shall notify Tenant of its proportionate share of the cost of water service. Tenant shall pay to Landlord Tenant's proportionate share within ten (10) days after Landlord's notice.

Research References

C.J.S. Landlord and Tenant § 466-469.

West's Key No. Digests, Landlord and Tenant ⇨182.

§ 11:75 Right of Tenant to Alter, Remodel or Rebuild the Premises

The Tenant, during the term of this lease, may build, rebuild, remodel, recondition, rehabilitate, convert, change, and alter the Premises, and install and maintain additions and structures thereto, including internal and external changes, and may change the number of living units in the Premises and attach fixtures thereto, and make any and all improvements thereto, including utilities and roads, at the expense of the Tenant, and Tenant shall have full power and right, at any time during the term of this lease, provided Tenant is not then in default in the performance of any of its obligations hereunder, to tear down, remove and destroy the building or buildings on the leased Premises or any part thereof, or to alter or change the same in material respects, provided that the building or buildings so removed, torn down or destroyed shall be promptly rebuilt or replaced, at the Tenant's expense; *provided, however*, that these rights may be exercised only in accordance with plans and specifications submitted to and approved in writing by the Landlord. The Tenant may make such reasonable variations from, and modifications in, such plans and specifications originally approved by the Landlord as the Tenant deems necessary in the course of carrying out such plans and specifications. All such building, rebuilding, remodeling, reconditioning, rehabilitating, converting, changing, and altering of the Premises, and all additions, structures, and fixtures added to the Premises, by the Tenant, including utilities and roads, which are remaining thereon at the termination of this lease, however, accomplished, or when the Tenant begins reconversion of the Premises, shall then become the property of the Landlord; and the Tenant shall be under no obligation to restore or reconvert the Premises to their condition at the time of the execution of this lease; *provided, however*, that in the event the Tenant determines to terminate this lease, *except* where such termination is in pursuance of an election made by the Tenant under the provisions of paragraph _____ hereof, and the conversion of the Premises has been actually commenced but has not been completed, the Tenant, at its sole option, before such termination becomes effective, shall either complete the conversion or restore or reconvert the Premises

Ex #1 B