



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

**Dispute Codes:** MNDC, FF

### **Introduction**

This hearing dealt with an application from the tenants for a monetary order as compensation for loss, and recovery of the filing fee for this application. One of the two tenants participated in the hearing and gave affirmed testimony. Despite being served by way of registered mail with the application for dispute resolution and notice of hearing, the landlord did not attend.

### **Issue to be Decided**

- Whether the tenants are entitled to a monetary order under the *Act*

### **Background and Evidence**

Pursuant to a written residential tenancy agreement, the month-to-month tenancy began in November 2007. Rent of \$800.00 is payable in advance on the first day of each month, and a security deposit of \$400.00 was collected at the start of tenancy.

The provision of hot water and heat to the unit are included in the rent. For a five (5) day period from November 21 to 25, 2008, hot water and heat were unavailable to the unit as a result of the landlord's failure to pay the utility bill. The tenants initiated a proposal with the landlord for compensation for the loss of these services. While the landlord invited a proposal, the landlord did not engage in any attempt to reach a negotiated settlement of the matter, or provide a clear response to the proposal.

The proposal from the tenants is as follows:

Eating out @ \$15.00/day x 5 days x 2 persons = \$150.00

One week's rent:  $(\$800.00 \div 30) \times 7 = \$186.69$

Total: \$336.69

### **Analysis**

Based on the documentary evidence and undisputed testimony of the tenant, I find that the application for dispute resolution and notice of hearing package was served on the landlord by way of registered mail.

Section 27 of the *Act* addresses **Terminating or restricting services or facilities** and provides, in part, as follows:

27(1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation,

Section 28 of the *Act* speaks to **Protection of tenant's right to quiet enjoyment**.

Further, Residential Tenancy Policy Guideline # 6 addresses the Right to Quiet Enjoyment and states, in part:

This guideline deals with a tenant's entitlement to quiet enjoyment of the property that is the subject of a tenancy agreement. At common law, the covenant of quiet enjoyment "promis(es) that the tenant...shall enjoy the possession and use of the premises in peace and without disturbance. In connection with the landlord-tenant relationship, the covenant of quiet enjoyment protects the tenant's right to freedom from serious interferences with his or her tenancy."

Examples of interference which may form the basis for a claim of a breach of the covenant of quiet enjoyment include, but are not limited to:

- intentionally removing or restricting services, or failing to pay bills so that services are cut off

In consideration of all of the above information, I find that as a direct result of the landlord's failure to pay the utility bill, the tenants have established a claim for \$386.69. This amount is comprised of \$336.69 for the combined allowance for eating out and rent as set out above, in addition to the \$50.00 filing fee for this application. I order that the landlord pay this amount FORTHWITH to the tenants and I grant the tenants a monetary order under section 67 of the *Act* for \$386.69.

### **Conclusion**

Pursuant to all the information above, I hereby grant the tenants a monetary order under section 67 of the *Act* for **\$386.69**. Should the landlord fail to comply, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

DATE: March 5, 2009

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Dispute Resolution Officer