



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNR, MNDC, FF

### Introduction

This matter dealt with an application by the Tenant to cancel a Notice to End Tenancy for Unpaid Rent and a Monetary Order for compensation for damage or loss under the Act or tenancy agreement as well as to recover the filing fee for this proceeding. At the beginning of the hearing the Landlord claimed that the Tenant moved out.

The hearing started as scheduled at 1:30 p.m., however by 1:40 p.m., the Tenant had not dialled into the conference call. Consequently, the hearing proceeded in the Tenant's absence.

### Issues(s) to be Decided

1. Is the Tenant entitled to compensation for damages and if so, how much?

### Background and Evidence

This tenancy started on April 1, 2005 and ended on April 1, 2009 when the Tenant moved out. Rent was \$925.00 per month payable on the 1<sup>st</sup> day of each month. The Landlord said that he served the Tenant with a 2 Month Notice to End Tenancy dated February 23, 2009 to take effect on April 30, 2009. The Landlord claimed the Tenant wanted to move out April 1, 2009 and wanted to get the month of March 2009 rent-free.

The Landlord said he received a notice to end tenancy from the Tenant on March 5, 2009. In that letter dated February 25, 2009 and signed by the Tenant, the Tenant said he would be withholding his rent for March, 2009 but said it was because he felt he should be compensated by the Landlord for various damages which included:

- Continuous problems with electricity;
- Fireplace not working;
- Had flood problems last year;
- No power in bedroom and laundry room;
- Freezer defrosted and contents spoiled (\$375.00);
- Closet doors never installed since flood last year;

Consequently, the Landlord served the Tenant with a 10 Day Notice for Unpaid Rent and Utilities on March 3, 2009. The Landlord said March, 2009 rent is still unpaid.

## Analysis

Section 50 of the Act says that a tenant who receives a 2 Month Notice to End Tenancy may end the tenancy earlier than the effective date of that Notice by giving the Landlord at least 10 days written notice to end the tenancy on a date that is earlier than the effective date of the Landlord's notice. Section 51(1.1) of the Act says that a Tenant is entitled to withhold his last month's rent. Consequently, I find that the Tenant was entitled to withhold his rent for the month of March, 2009 (as his one month's compensation). As the tenancy has ended, however, the Tenant's application to cancel the Notice to End Tenancy for Unpaid rent is dismissed.

As there is insufficient evidence in support of the Tenant's application for compensation for damages, that part of his application is also dismissed.

## Conclusion

The Tenant's application is 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: April 24, 2009.

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Dispute Resolution Officer