

**Dispute Codes:** MNDC

**Introduction**

I have been delegated the authority under Section 9.1 of the *Residential Tenancy Act* (the “Act”) to hear this matter and decide the issues.

This is the Tenant’s application for a Monetary Order for compensation for damage or loss under the Act, regulation or tenancy agreement.

The parties gave affirmed evidence and the Hearing proceeded on its merits.

**Issues to be Decided**

- Is the Tenant entitled to a monetary order for compensation for lack of heat?

**Background and Evidence**

The Tenancy started on January 1, 2008 and ended on January 31, 2009, after the Tenant gave the Landlord her notice. The monthly rent was \$770.00 per month. The rental unit is located in an apartment building.

The Tenant gave the following testimony:

- The boiler was not working in the apartment building for a period of about 6 weeks between mid-December, 2008 and when the Tenant moved out at the end of January, 2009.
- The Landlord provided the Tenant with a small space heater, but it was not sufficient to heat her apartment and she was very cold.
- The Tenant bought an additional heater, but it was still uncomfortably cold in her apartment.
- The Tenant gave her notice and moved into a suite in a more expensive building.
- The Tenant applied for a monetary order in the amount of \$770.00 for compensation for the lack of heat in her apartment for 6 weeks.

The Landlord’s agent gave the following testimony:

- The building’s boiler broke down in mid-December, but was fixed within 4 or 5 days, in time for Christmas.

- Perhaps the Tenant did not turn the heat back on when the boiler was fixed.
- The Landlord's agent did not know the date the boiler was fixed.
- The Landlord gave the Tenant two heaters.

The Tenant's Witness gave the following testimony:

- The Witness is the Tenant's counselor, and visited the Tenant at her home two or three times in December, 2008, and two or three times a week in January, 2009.
- It was very cold in the Tenant's apartment when the Witness visited the Tenant in December and January. There was also smoke damage in the Tenant's apartment due to a fire that occurred across the hall from the Tenant.
- The Tenant has a medical condition that makes her muscles stiffen when she is cold.

### **Analysis**

The Landlord's agent was not able to provide details or documents to prove how long the boiler was out of service. Based on the testimony of all of the parties, I accept that the boiler was out of commission for 6 weeks. I also accept that the small space heaters did not provide adequate heat in the apartment.

The Tenant's Witness testified that the Tenant had a medical condition that was impacted by the lack of heat in her apartment, however, there was no evidence provided that the Landlord was aware of the Tenant's medical condition, or that the Tenant advised the Landlord of her medical condition.

Having found the Tenant was without adequate heat for six weeks, which was included in her rental agreement, I find the Tenant is entitled to compensation in the amount of 25% of her rent for a period of 6 weeks, for a total of \$288.75, calculated as follows:

Rent for one month	\$770.00
½ month's rent	<u>\$385.00</u>
Rent for 6 weeks	\$1,155.00
\$1,155.00 x 25% = 288.75	

**Conclusion**

I HEREBY FIND in favor of the Tenant's monetary claim in the amount of \$288.75 against the Landlord and issue a Monetary Order in that amount. The Monetary Order must be served on the Landlord and may be filed in the Provincial Court of British Columbia (Small Claims) and enforced as an order of that Court.

Dated: July 29, 2009.

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