



# **Dispute Resolution Services**

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

## **Decision**

**Dispute Codes:** MNDC, OLC, FF

## **Introduction**

This hearing dealt with an application from the tenants for a monetary order as compensation for damage or loss under the Act, an order instructing the landlord to comply with the Act, and recovery of the filing fee. Both parties participated in the hearing and gave affirmed testimony.

## **Issues to be decided**

- Whether the tenants are entitled to any or all of the above under the Act

## **Background and Evidence**

There is no written residential tenancy agreement in place for this month-to-month tenancy which began on or around May 1, 2005. Rent in the amount of \$850.00 was payable on the first day of the month, and a security deposit of \$425.00 was collected at the start of tenancy. The tenancy ended on April 30, 2009 pursuant to a “Mutual Agreement to End a Tenancy” form signed by the parties on March 30, 2009.

The tenants claim that the tenancy ended principally as a result of disturbance created by tenants living in the unit located above theirs. The upstairs tenants moved into the unit in approximately mid November 2008. The tenants consider that the landlord’s response to their concerns was insufficient, and they seek a monetary order as compensation for breach of the right to quiet enjoyment.

Evidence provided by the landlord included, but was not limited to, a description of the actions taken to respond to the tenants’ concerns. These actions included a verbal and written warning to the upstairs tenants. Ultimately, the landlord requested that the upstairs tenants vacate the unit and they did so effective at the end of April 2009.

During the hearing the parties exchanged views on the circumstances surrounding the dispute and undertook to find a resolution.

### **Analysis**

Section 63 of the Act provides that the parties may undertake to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution of the dispute. Specifically, it was agreed as follows:

- that the landlord will make payment to the tenants in the total amount of \$525.00;
- that the above payment will be made by way of two (2) post-dated cheques, each one made payable to the male tenant;
- that the cheques will be post-dated July 28 and August 28, 2009;
- that each cheque will be in the amount of \$262.50;
- that the cheques will be mailed to the tenants at their current address as shown on their application for dispute resolution;
- that the landlord will deposit the cheques into the mail by no later than midnight, Friday, July 31, 2009;
- that the above particulars comprise full and final settlement of all aspects of the dispute related to this tenancy for both parties.

### **Conclusion**

Pursuant to the above agreement, I hereby issue a monetary order in favour of the tenants in the amount of **\$525.00**. Should it be necessary, this order may be served on the landlord, filed in the Small Claims Court and enforced as an order of that Court.

DATE: July 29, 2009

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Dispute Resolution Officer