



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, OLC, RP, FF

### Introduction

This hearing dealt with the tenants' application for a Monetary Order for compensation for damage or loss under the Act, regulations or tenancy agreement, Orders for the landlord to comply with the Act, regulations or tenancy agreement, make repairs to the rental unit and recovery of the filing fee paid for this application. Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to the other party's submissions.

### Issues(s) to be Decided

1. Are the tenant's entitled to a Monetary Order, and if so, the amount.
2. Orders necessary to ensure compliance with the Act, regulations or tenancy agreement.
3. Orders necessary to ensure repairs are made to the rental unit.
4. Award of the filing fee.

### Background and Evidence

I heard undisputed testimony that the tenants have lived in the rental unit approximately two years and are currently required to pay rent of \$850.00 per month. In September 2009 there was a flood in the rental unit. The tenants were required to stay in a motel from the last week of September 2009 through to October 26, 2009. The tenants had a tenant's insurance package that covered 100% of their motel costs and 70% of their restaurant costs, subject to a \$300.00 deductible.

In making this application, the tenants sought compensation of \$1,577.20 from the landlord. During the hearing, the parties mutually agreed to settle the claim as follows. The tenants agreed to withdraw their claim for October 2009 rent paid in exchange for the landlord compensating the tenants for the following costs not reimbursed by the tenants' insurance package:

Insurance deductible	\$ 300.00
Restaurant costs	100.00
Cell phone costs	85.20
Laundry costs	48.00
Gas and mileage costs	101.20
Hair styling cost	80.00
Additional hydro costs	<u>25.00</u>
Total	\$ 739.40

The tenants raised another issue that was not part of this application with respect to loss of food in a freezer. As the landlord claimed he had not been advised of this issue, the tenants were informed to raise this issue with the landlord in an effort to resolve this matter between them.

With respect to repairs to the rental unit, the tenants claimed that a foul odour remains in the 2<sup>nd</sup> bedroom as a result of meat rotting in the freezer that lost power during the flood repairs. Two previous attempts have been made by the landlord to eliminate the odour; however, the tenants claim the odour remains. The landlord agreed to investigate the issue personally and attend the rental unit.

### Analysis

I accept the mutual agreement reached between the parties during the hearing and make it an order, to be binding upon both parties, in settlement of this monetary claim. I also award the tenants one-half of the filing fee paid for this application.

Upon hearing about the odour in the 2<sup>nd</sup> bedroom and the two previous attempts to remedy the issue I find further investigation is warranted by the landlord.

In light of the above findings, I make the following orders:

1. The tenants are awarded and authorized to reduce a subsequent month's rent by \$764.40 (\$739.40 amount of settlement + \$25.00 for the filing fee).
2. The landlord is ORDERED to attend the rental unit and investigate the complaint of odour in the 2<sup>nd</sup> bedroom within one week of the date of this decision.

### Conclusion

This dispute has been resolved by mutual agreement. The tenants have been awarded \$764.40 which they may recover by withholding \$764.40 from a subsequent month's rent. The landlord agreed and is ordered to attend the rental unit within one week to investigate the complaint of odour in the 2<sup>nd</sup> bedroom of the rental unit.

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: February 12, 2010.

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Dispute Resolution Officer