



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

### **Dispute Codes:**

MNDC, RP, RR, FF

### **Introduction**

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for compensation for loss of quiet enjoyment and for damages and loss in the amount of \$325.97, and for the landlord to make repairs, and to allow the tenant to reduce the rent for facilities agreed upon but not provided; and, to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. Evidence was reviewed. The parties were provided with the opportunity to submit relevant documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony, to ask each other questions and to make submissions during the hearing.

### **Issue(s) to be Decided**

Is the tenant entitled to compensation in the sum of \$325.97 in loss of quiet enjoyment and personal property?

Is the tenant entitled to filing fee costs?

### **Background and Evidence**

This tenancy began in July 2010. The rent payable is \$1650 per month.

The tenant has claimed compensation for the loss of quiet enjoyment in respect to water ingress into the rental unit since August 06, 2010 and intermittently thereafter when it rained. The tenant claims that they repeatedly requested the landlord to fix the cause of the water ingress before the rain season, but the landlord allegedly ignored their request. One month later on September 05, 2010 the tenant again received some "flooding" in the same place as the previous month and the tenant's request for some action was allegedly ignored. The tenant again did not receive a response several weeks later, therefore determined to file for dispute resolution. The landlord disputes that the tenant's request was ignored, but that it was not an emergency, therefore the request was scheduled for repairs and the parties agree that as of this date the roof of the residential property is 'tarped' over until repairs can be made.

The tenant's monetary claim is for rent abatement in the amount of \$100 per month for August and September (\$200) for having to endure the water ingress, cleaning up and having to take time to access the landlord and request repairs. The tenant further

requests ½ days pay for having to be home to allow the landlord entry to view required repairs (\$60) and for damaged food stuffs from water ingress into the tenant's pantry (\$15.97). The tenant thinks that paying \$1650 per month entitles them to a better degree of consideration by the landlord and that they should not have had to wait two months for the landlord to have responded as they ultimately did in arresting the water leak. The tenant's total claim for loss of quiet enjoyment is for \$275.97. The tenant provided photographs of the suspected required repairs, the claimed water ingress into the suite, and the claimed water ingress into the food pantry area. The landlord disputes the tenant's entire claim for monetary compensation.

### **Analysis**

When making a claim for damages or loss under a tenancy agreement or the Act, the party making the allegations has the burden of proving their claim. Proving a claim in damages requires that it be established that the damage or loss occurred, that the damage or loss was a result of a breach of the tenancy agreement or *Act*, verification of the actual loss or damage claimed and proof that the party took all reasonable measures to mitigate their loss. When a claim for compensation for loss of quiet enjoyment is made the test is whether the tenant has been unreasonably disturbed.

In this matter, I find that the landlord was given opportunity to address the tenant's initial complaint of water ingress. Regardless of whether or not the landlord intentionally ignored the tenant's request, I find the tenant was unreasonably disturbed despite their attempts to avoid a reoccurrence of the water ingress after alerting the landlord of the problem. I find the tenant is entitled to reasonable compensation, and I set that compensation at **\$200**. I will allow the tenant's request for recovery of the filing fee in the amount of **\$50**, for a total entitlement of **\$250**.

### **Conclusion**

I Order that the tenant **may deduct \$250** from a future rent.  
The balance of the tenant's claim is dismissed.

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*.