



# Dispute Resolution Services

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MND, MNR, MNSD, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order and an order to retain the security deposit. The landlord testified that the tenants were served with a copy of the application for dispute resolution and notice of hearing by registered mail. I accept that the tenants were properly served with notice of the claim against them and the hearing proceeded in their absence.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The landlord's undisputed evidence is as follows. The rental unit has a yard in which is installed an underground sprinkler system. At some point in the spring of 2010 a control valve in the lawn was damaged, causing a leak. The landlord theorized that the tenants drove over the top of the valve. On May 31 the City of Surrey issued an invoice to the landlord for water and sewer, both of which are metered, which was substantially higher than previous bills. The invoice shows that both the water consumption and sewer usage were more than 4 times higher than in the previous billing period. The invoice contains the instruction "High consumption – please check for a leak." The landlord testified that when she discovered that the water usage was excessive, she attended at the rental unit and asked the tenants if there was a leak. The tenants stated that they had no knowledge of a leak. The landlord conducted no further investigation until after

the tenants vacated the unit approximately one month later, at which time the source of the leak was discovered.

The landlord provided photographs showing the damage to the control valve, copies of invoices for water and sewer usage and an invoice for the cost of repairing the control valve.

### Analysis

In order to prove her claim the landlord must prove not just that damage occurred and that she suffered a financial loss as a result, but also that the tenants caused the damage. The landlord presented no evidence to prove that the tenants caused the damage in question. The landlord did not witness them damaging the control valve, either deliberately or negligently, and appears to assume that they were responsible for the damage simply because they were living in the unit at the time the damage occurred. The valve which was damaged was located outside in an area easily accessible to the public. I am unable to find on the balance of probabilities that the tenants caused the damage.

The landlord also suggested that the tenants should have been aware of the leak and should have reported it to the landlord. I find no reason why the tenants should have been aware of the leak. The broken valve was outside rather than in the rental unit. The landlord's agent confirmed that the leak occurred underground and was not visible above ground and the landlord did not detect it when attending at the unit at the beginning of June. In the absence of proof that the leak should have been evident to the tenants, I find that they were not negligent in failing to report the leak.

### Conclusion

I find the landlord has failed to prove that the tenants were responsible for the damage

in question and accordingly dismiss the claim.

Dated: December 01, 2010

---

Dispute Resolution Officer