



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes MNDC, MNSD, OLC, RP, PSF, FF

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking a monetary order; an order to have the landlord comply with the *Residential Tenancy Act* (Act), regulation, or tenancy agreement; an order to have the landlord make repairs; and an order to have the landlord provide services or facilities required by law.

The hearing was conducted via teleconference and was attended by both tenants and the landlord.

At the outset of the hearing the tenants acknowledged that the kitchen repairs had been completed as of March 12, 2011 and that the tenants were vacating the rental unit at the end of March 2011 and as such there was no longer a need for an order to have the landlord comply with the Act, regulation or tenancy agreement; an order to have the landlord make repairs; or an order to have the landlord provide services or facilities required by law.

As a result, I amend the tenants' application to deal only with the matters related to the monetary order and exclude all other matters.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement; for all or part of the security deposit and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 33, 38, 67, and 72 of the Act.

### Background and Evidence

The parties agree the tenancy began in October 2009 as a 1 year fixed term tenancy that converted to a month to month tenancy in October 2010 for a current monthly rent of \$1,000.00 due on the 1<sup>st</sup> of the month with a security deposit of \$600.00 paid in October 2009 and a pet damage deposit of \$200.00 paid in June 2010.

The parties both agree that on or about February 10, 2011 there was a flood in the kitchen of the rental unit resulting from a leaking faucet. The tenants testified they had

report the problem to the landlord several times prior to the flood but that the landlord failed to repair it.

The parties also agree that all attended a meeting with the landlord's insurance adjuster to assess the damage and to determine the next steps. The tenants contend the landlord and the insurance adjuster verbally advised them that to save their receipts for dinners and they would be compensated for them while the kitchen was not functional. In addition the tenants state they were advised that there would also be a reduction in the rent for inconvenience.

The landlord asserts there was no such committed but that the tenants were advised to keep their receipts and the adjuster would see what he could come up with but that normally this would be covered by the tenants' own insurance.

Both parties agreed that the other than the sink the kitchen was still usable in that the fridge and stove were not impacted by the flood and that there was counter space that could be used. The tenants could not do dishes in the kitchen sink and were advised to do them in the bath tub. The tenants both state that they have back problems that returned use of the bath tub for this purpose very difficult.

The tenants request the following compensation:

Description	Amount
Compensation for meals (Canada Revenue Agency rates \$51.00 per day per person)	\$2,652.00
Return of Security Deposit	\$600.00
Return of Pet Damage Deposit	\$200.00
Waiver of March 2011 rent	\$1,000.00
<b>Total</b>	<b>\$4,452.00</b>

### Analysis

In the case of verbal agreements, I find that where terms are clear and both the landlord and tenant agree on the interpretation, there is no reason why such terms cannot be enforced. However when the parties disagree with what was agreed-upon, the verbal terms, by their nature, are virtually impossible for a third party to interpret when trying to resolve disputes.

As such, and in the absence of any supporting evidence or documentation I find that I cannot rely on the tenants' assertion that there was any agreement on compensation for meals. However, in the landlord's evidence he notes that he had offered to compensate the tenants in the amount of \$16.50 per day for the duration of the time without a sink (26 days in total) for a total of \$429.00.

Based on the evidence before me that the reduction of use of the rental unit was primarily that there was no kitchen sink, I find the landlord's offer to be extremely fair and reasonable as compensation for the reduction in value of the tenancy.

Based the absence of any written agreement to the contrary and the evidence before me, specifically that the kitchen was usable for storing, preparing and cooking food, I see no liability on the part of the landlord to compensate the tenants for meals out for the duration of the repairs. I therefore dismiss this portion of the tenants' application.

In relation to the tenants' application for return of the deposits, I note that a security deposit is defined in Section 1 of the *Act* as money paid by a tenant to a landlord to be held as security for any liability or obligation of the tenant respecting the residential property. Further, a pet damage deposit is money paid by a tenant to a landlord to be held as security for damage to residential property caused by a pet.

As such, I find tenants are not entitled to the return of a security deposit or pet damage deposit until such time as the tenancy has ended; the tenants have vacated the rental unit; and all requirements of the *Act* are met regarding the return of a security deposit. As such, I dismiss this portion of the tenants' application.

### Conclusion

Based on the above, I find that the tenants are entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$429.00** as compensation for the loss of value of their tenancy. This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

As the tenants were largely unsuccessful in their claim, I dismiss their application to recover the \$50.00 fee paid by the tenants for this application.

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: March 31, 2011.

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Residential Tenancy Branch