



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      MNDC

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution for a monetary order.

The Tenant testified, and her witness confirmed, that the Tenant delivered the Application and Notice of the Hearing to the Landlords' business address on November 17, 2010. Though duly served, the Landlords did not attend the hearing and the hearing proceeded in their absence

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary relief sought in her application under Section 67 of the Residential Tenancy Act (the "Act")?

### Background and Evidence

The tenancy started on January 8, 2010, and ended on November 26, 2010 when the Tenant moved out of the rental unit.

The Tenant testified that she informed the Landlords on November 3, 2010, that the freezer portion of her refrigerator was not working. The Landlords called out a repairman, who informed the Tenant the refrigerator lacked Freon. The repairman also informed the Tenant that he could not replace the Freon until the Landlords instructed him to do so as the alternative was to replace the refrigerator.

The Tenant testified that from November 3 until November 26, 2010, when she moved out, the Landlords had neither repaired nor replaced the freezer, causing her to lose the

food she had in the freezer as well as requiring the Tenant to keep her food at a friend's house for this time period. The Tenant testified that she has a disability and had great difficulty in travelling the two miles to the friend's house.

The Tenant claimed for \$150.00 for lost food and the Landlords' failure to repair the freezer for the last month of the tenancy.

### Analysis

Based on the foregoing testimony and evidence, and on a balance of probabilities, I find as follows:

When making a claim for damages under a tenancy agreement or the Act, the party (in this case, the Tenant) making the allegations, has the burden of proving their claim.

Proving a claim in damages requires:

1. That the Respondent (the Landlords) violated the Act, Regulation, or tenancy agreement; and
2. The violation resulted in damage or loss to the Applicant; and
3. Verification of the actual amount required to compensate for loss or to rectify the damage; and
4. The Applicant did whatever was reasonable to minimize the damage or loss.

The Tenant has not provided any verification of the actual amount required to compensate for the loss; however Residential Tenancy Branch policy suggests that a dispute resolution officer may, however, award "nominal damages", which are a minimal award. These damages may be awarded where there has been no significant loss or no significant loss has been proven, but they are an affirmation that there has been an infraction of a legal right. I have considered nominal damages in relation to the compensation claimed by the Tenant.

I find, based on the Tenant's testimony and in the absence of evidence to the contrary by the Landlords, that the Tenant is entitled to nominal compensation in the sum of \$75.00.

I grant the Tenant an **order** under section 67 for the amount of **\$75.00**.

This order may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

Conclusion

The Tenant is granted a monetary order for \$75.00.

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 23, 2011.

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Residential Tenancy Branch