



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, OLC, FF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. A Monetary Order for compensation for loss – Section 67;
2. An Order for the Landlord to comply with the Act, Regulation or tenancy agreement – Section 62; and
3. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity to be heard, to present evidence and to make submissions.

### Issue(s) to be Decided

Is the Tenant entitled to the monetary amounts claimed?

Is the Landlord not in compliance with the Act, regulation or tenancy agreement?

Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The tenancy began on September 1, 2011. The Tenant states that on September 23, 2011, trades people entered the unit to conduct repairs for the Landlord. The Tenant states that the Tenants were not in the unit during the repairs but when they returned to the unit, the television was discovered by their child on the floor and broken. The Tenant states that since the television was in place when the Tenants left and since the only the trades people were in the unit before the Tenants returned home, that the trades people must have caused the damage to the television.

The Landlord states that none of the trades people in the unit were working in the room containing the television, had not heard any sounds of a television falling, had not seen the television fall and were not responsible for the television falling or being damaged. The Landlord supplied statements to this effect by the tradespersons at the unit on the day the television was discovered to be damaged. The Landlord states that they have enjoyed a long working relationship with the trades persons who carry insurance and that on no occasion has the trades persons ever denied responsibility for damages caused by themselves during their work for the Landlord. The Landlord further states that the tenancy agreement contains a clause that waives liability of the Landlord unless the Landlord is in breach of a lawful duty.

### Analysis

In a claim for damage or loss under the Act, regulation or tenancy agreement, the party claiming costs for the damage or loss must prove on a balance of probabilities that, inter alia, the damage or loss claimed was caused by the actions or neglect of the responding party. The Tenant believes that since nobody was at home other than the tradespersons, that the tradespersons must have caused the television to fall. This evidence of belief alone however does not prove that the Landlord or its agents in fact caused the television to fall by any act or negligence. The Tenant provided no other evidence to substantiate the claim and I therefore find that the Tenant has not proven on a balance of probabilities that the Landlord or its agents caused the damage to the television. Accordingly, I dismiss the application of the Tenant.

### Conclusion

The Tenant's application 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*.

Dated: November 09, 2011.

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Residential Tenancy Branch