



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

For the tenant: MT, ERP, CNR, MNDC

For the landlords: MNDS, OPR, MNR, MNDC, FF

### **Introduction**

This hearing dealt with cross applications filed by both parties seeking remedy under the *Residential Tenancy Act*.

The tenant is seeking to cancel a 10 Day Notice to End Tenancy for Unpaid Rent (the "Notice") issued by the landlord, a monetary order for money owed or compensation for damage or loss, an order requiring the landlords to make emergency repairs, and for an order granting more time to make an application to cancel a notice to end tenancy.

The landlord is seeking an order of possession, authority to retain the tenant's security deposit, a monetary order for money owed or compensation for damage or loss and unpaid rent and to recover the filing fee.

The tenant testified that she served the landlord her Application for Dispute Resolution and Notice of Hearing within three days of making her application.

Despite having her own Application, the Application of the tenant and the Notices of these Hearings, the landlord did not appear. I find the landlord has been duly served under the Act and had notice of the time and place of the hearing.

**Therefore, I dismiss the Application of the landlords, without leave to reapply.**

The tenant appeared, gave affirmed testimony and was provided the opportunity to present evidence orally and in documentary form prior to the hearing, and to make submissions to me.

### **Preliminary Issue:**

The tenant testified that she has now vacated the rental unit, as of January 30, 2012, and is no longer seeking cancellation of the Notice. As a result, I have amended the tenant's application, removing that section as well as her request seeking more time to

file an application and for an order requiring the landlord to make emergency repairs. I make no finding on the merits of the tenant's application for those sections.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss?

### Background and Evidence

This month to month tenancy started on September 1, 2011, monthly rent was \$900.00, and a security deposit of \$450.00 was paid by the tenant on or about August 18, 2011.

The tenant's monetary claim is in the amount of \$550.00, which she claims is for the loss of use of the stove.

The tenant failed to submit evidence in support of her claim; however she testified that the stove never worked properly from the beginning of her tenancy.

Upon query, the tenant confirmed that she never addressed this issue with the landlord in writing.

### Analysis

Based on the above testimony, 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 making the allegations, the tenant in this case, has the burden of proving her 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.

As to the tenant's claim for a loss of use of the stove, I find the tenant failed to substantiate that she requested the landlord to make the repair of the stove or that she was unable to use the stove.

Conclusion

I therefore **dismiss** the tenant's application for \$550.00 for loss of use of the stove, without leave to reapply.

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: February 03, 2012.

---

Residential Tenancy Branch