



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, MNSD, ERP, RP, RR, FF

### Introduction

This matter dealt with an application by the Tenant for compensation for damage or loss under the Act, regulations or tenancy agreement, for the return of the security deposit, for emergency repairs, for other repairs, for a rent reduction and to recover the filing fee for this proceeding.

The Tenant said they served the Landlord with the Application and Notice of Hearing (the “hearing package”) by registered mail on March 9, 2012. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant’s hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

At the start of the conference call the Tenant confirmed that he was moving out of the rental unit on or before April 1, 2012. Consequently the Tenant’s application for emergency repairs, other repairs and a rent reduction were withdrawn by the Tenant. As well the Tenant has applied for the return of his security deposit, but as he has not moved out of the unit as of yet this part of the application is premature. The Landlord and the Tenant were told to handle the security deposit as specified in section 38 of the Act. Consequently the Tenant’s application for his security deposit is dismissed with leave to reapply after the Tenant moves out of the rental unit if the security deposit is not returned or if the Landlord does not comply with the Act. As a result the application was reduce to the Tenant’s monetary claim for loss or damage under the Act, regulations or tenancy agreement.

### Issues(s) to be Decided

1. Has the Tenant had a loss or damage and if so how much?
2. Is the Tenant entitled to compensation for that loss or damage and if so how much?

### Background and Evidence

This tenancy started on December 15, 2005 as a month to month tenancy. Rent is \$795.00 per month payable at the end of each month. The Tenant paid a security deposit of \$400.00 on December 15, 2005 and a pet deposit of \$200.00 on December 15, 2005.

The Tenant said he is making this application because the Landlord has not maintained the property or rental unit over this tenancy. The Tenant said he has asked the Landlord on many occasions to fix different things in the unit and the Landlord either did not make the repairs or did a poor job on the repairs. As a result the Tenant said he is asking for compensation for living in poor conditions over the last 6 years of the tenancy. The Tenant said he has not spent his own money to fix things in the rental unit and he has not made an application for the Landlord to make repairs to the rental unit to the Residential Tenancy Branch over the last six years. The Tenant said he is applying for the following compensation:

1. For the leaky roof \$25.00 per month for 6 years	\$1,925.00
2. For faulty electrical \$15.00 per month for 6 years	\$1,155.00
3. For illegal activities in the unit \$15.00/month for 4 years	\$ 950.00
4. For neglect to the furnace \$25.00 per month for 6 years	\$1,925.00
5. For inefficient windows \$25.00 per month for 6 years	\$1,925.00
6. For faulty plumbing \$15.00 per month for 6 years	\$1,155.00
7. For the rodent problem \$15.00 per month for 4 years	<u>\$ 950.00</u>
 TOTAL	 <u>\$9,985.00</u>

The Landlord said they have had complaints from the Tenant about repairs on the property and she said they tried to make repairs as soon as they could. The Landlord continued to say they serviced the furnace in December, 2009, they have had the plumber in a number of times and they had the pest control come in to remove the rodent problem. As well the Landlord said they gave the Tenant a rent reduction of \$100.00 on two occasions for work he and another tenant did on the roof. The Landlord concluded her remarks by saying they have tried to make repairs to the property and the property does need some work.

## Analysis

For a monetary claim for damage or loss to be successful an applicant must prove a loss actually exists, prove the loss happened solely because of the actions of the respondent in violation to the Act, the applicant must verify the loss with receipts and the applicant must show how they mitigated or tried to minimize the loss.

There was much contradictory testimony given and conflicting evidence submitted. The Tenant says the Landlord did not make repairs to the unit and now the Tenant should be compensated at the end of the tenancy for the inconvenienced of living in a rental unit that is in poor repair. The Landlord said that they have tried to make repairs to the unit, but the unit is old and in need of repair. This is why the Landlord issued a 2 Month Notice to End Tenancy for the Landlord's use of the Property. As well the Landlord said they will compensate the Tenant the equivalent of one month's rental \$795.00, if the Tenant moves out of the rental unit on April 1, 2012 as he has told the Landlord he is doing.

As the Tenant said he has not paid for any repairs to the rental property, but just estimated a number that he felt would compensate him for the poor repair of the rental unit, I find the Tenant has not proven a loss or damage actually exists. Consequently I dismiss the Tenant's application for lack of evidence to prove a loss actually exists to the Tenant.

As the Tenant has been unsuccessful in this matter I order the Tenant to bear the \$100.00 filing fee for this proceeding that he has already paid.

## Conclusion

I dismiss the Tenant's application 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*.

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Dispute Resolution Officer