

## **DECISION**

Dispute Codes      CNC, MNDC, ERP, RR, FF

### Introduction

This is an application filed by the Tenant to cancel a notice to end tenancy for cause, a monetary order for money owed or compensation under the Act, regulations or the Tenancy Agreement, to have emergency repairs made for health or safety concerns, to be able to reduce rent for repairs, services or facilities agreed upon but not provided and recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended the hearing and have acknowledged receiving the other parties evidence, I am satisfied that each has been properly served under the Act.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to a resolution. Specifically, it was agreed as follows:

The Tenant agrees to vacate the rental unit and return possession to the Landlord on April 30, 2012 at or before 1:00 pm and the Landlord shall receive an order of possession to reflect this. Both parties agreed that the Tenant will make the rent payment for April 2012 of \$600.00 to the Landlord within 24 hours of this hearing and that the Landlord shall immediately call the alarm service company to de-activate the Tenant's alarm system.

The above particulars comprise full and final settlement of all aspects of the dispute arising from this application for both parties concerning the possession of the rental.

As the Tenancy is coming to an end both parties have agreed that emergency repair issues and the Tenant's request to reduce rent need not be addressed. No further action is required for these portions of the Tenant's claim.

Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

Background and Evidence

The Tenant is seeking \$450.00 at \$150.00 per month for 3 months of compensation for repairs to a leaking faucet and the repair of a closet door. The Tenant states that she notified the Landlord of the leaking faucet which she claims was splashing out when turned on. The Landlord states that he attended and inspected the faucet and found no problems with it.

The Tenant is seeking \$50.00 for an overpayment of rent made at the beginning of the Tenancy. The Landlord concedes that this overpayment was made and agrees to reimburse the Tenant.

The Tenant seeks \$450.00 at \$150.00 for 3 months for the loss of quiet enjoyment. The Tenant states that the Landlord is harassing her, constantly yelling and screaming during their interactions. The Landlord disputes this stating there are many disagreements with each other that regular communication is not possible with the Tenant. The Tenant relies on a letter that she sent to the Landlord dated January 12, 2012.

The Tenant is also seeking reimbursement for \$50.00 at \$20.00 for 2 ½ months from the beginning of her Tenancy stating that the optional alarm fee that she was paying should be returned because the alarm did not work for that period. The Landlord disputes this stating that the alarm was tested and functions fully. The Tenant states that during that time she kept getting an error message when she turned it on. It was clarified by both parties that the error message was in relation to a programmed button for motion sensors when none exist in the rental unit. The Landlord states that although this error message appeared, the alarm was fully functional. The Tenant disputes this. The Landlord states that the Tenant called into register herself with alarm company to register her account and that the system was tested with the alarm company at that time.

Analysis

As explained to the parties during the hearing the onus or burden of proof is on the party making the claim, in this case the Tenant is responsible as she has made the

application. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. The Tenant relies on the evidence statement provided by the Landlord as her supporting evidence. I find upon review of the Landlord's material that it is the Landlord's summary of the Tenant's claims and is in no way an agreement of the Tenant's position. The Landlord reiterated during the hearing that they are disputing the Tenant's claims. On this basis, with no supporting evidence, I find that the Tenant has failed to establish her claim for a monetary order except the \$50.00 conceded by the Landlord as an overpayment of rent. I decline to order the return of the filing fee. The Tenant is granted a monetary order of \$50.00 for the return of the rent overpayment agreed to by the Landlord.

### Conclusion

The Landlord is granted an order of possession.  
The Tenant is granted a monetary order for \$50.00.

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: April 03, 2012.

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Residential Tenancy Branch