



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MND, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord for an order of possession, a monetary order and an order to retain the security deposit in partial satisfaction of the claim.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

### Issue(s) to be Decided

Is the landlord entitled to a monetary order for damages to the unit, site or property?

### Background and Evidence

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

The tenancy began on August 3, 2012. Rent in the amount of \$425.00 was payable on the first of each month. A security deposit of \$212.50 was paid by the tenant.

The landlord testified that on February 25, 2012, there was a flood in the building and the flood was caused by the neglect of the tenant. The landlord testified it cost \$2,800.00 to have the repairs completed. Filed in evidence is a copy of the estimate to have the work repaired.

The landlord testified that his insurance deductible is higher than the amount claimed. Therefore, he is unable to have the insurance company pay for any portion of the damage.

The tenant testified that he left the water running over his beer which he was cooling in the sink and he must have had a seizure as he was awoken to the unit being flooded.

### Analysis

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

To prove a loss and have one party pay for the loss requires the other party to prove four different elements:

- Proof that the damage or loss exists;
- Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act or agreement;
- Proof of the actual amount required to compensate for the claimed loss or to repair the damage; and
- Proof that the Applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

In this case, the landlord has the burden of proof to prove a violation of the Act and a corresponding loss.

The evidence of the landlord was the tenant's unit and the property below was damaged by a flood caused by the tenant. The evidence of the tenant was he left the water running over his beer in the sink.

I find the damaged occurred due to the action and neglect of the tenant and the landlord suffered a loss. Therefore, the landlord is entitled to compensation in the amount of **\$2,800.00**.

The landlord has established a monetary order in the amount of **\$2,850.00** comprised of the above amounts and the \$50.00 paid to file the application.

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

### Conclusion

The landlord is granted a monetary order for the above amount.

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: June 07, 2012.

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Residential Tenancy Branch