



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

### Dispute Codes

For the tenant – MNDC, O, FF

For the landlord – MNDC, FF

### Introduction

This hearing was convened by way of conference call in repose to both parties' applications for Dispute Resolution. The tenant has applied for a Monetary Order for money owed or compensation for damage or loss under the *Manufactured Park Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application. The landlord has applied for a Monetary Order for money owed or compensation for damage or loss under the *Manufactured Park Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the tenant for the cost of this application.

The tenants advocate, the landlord and the park manager attended the conference call hearing, gave sworn testimony and were given the opportunity to cross exam each other on their evidence. The landlord and tenant provided documentary evidence to the Residential Tenancy Branch and to the other party in advance of this hearing. The landlord has applied for a Monetary Order but has served the tenant by posting a copy of the application and notice of hearing to the tenant's door. Under s. 82(1) of the *Act* this is an incorrect method of service for the landlord's application and consequently the landlord's application is dismissed with leave to reapply.

### 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

Both parties agree that this tenancy started on November 01, 2004, the tenant pays a monthly site rent of \$205.00 which is due on the first of each month.

The tenants advocate testifies that she is the tenant's nanny and cares for his children in her home. The advocate testifies that the tenant asked her to attend this hearing as the tenant was unable to attend due to work commitments. The tenants advocate states she does not have firsthand knowledge of many aspects of the tenants claim.

The tenants advocate testifies that the tenants hydro, water and sewage system were not working and she had to take the tenants children to stay at her own home for four days and nights. The tenants advocate states she had to charge the tenant the sum of \$100.00 per day for this overnight care and the tenant seeks to recover this sum from the landlords.

The tenant has provided a written submission that states in the winter of 2010 the sewage field failed and caused damage to the tenant's mobile home and possessions. Due to this problem the tenants 100 tropical fish died and the tenant seeks replacement costs of \$1,000.00. The tenant submits in his written documentation that to protect the health and safety of the children the tenant had to move his children to his nanny's home for four days at \$100.00 per day.

The tenants advocate testifies that she has no knowledge of what happened to the sewage system except the tenant had told her that the system had backed up from a joint shared with the next door trailer. The advocate testifies that the tenant informed her that he had notified the park manager. The tenants advocate states that the children stayed overnight with her for four days.

The tenant has claimed in his submissions that in April 2012 there was another sewage problem at the next door trailer where the sewage flowed under the tenant's mobile home and flooded the parks electrical connector box causing the fuses to blow in the tenant's mobile home and the parks central power supply shed. The tenant was without power or

water from April 01, 2012 to April 18, 2012. The tenant claims \$100.00 for a round trip mirage of \$75.00 to Campbell River to purchase two fuses for the parks power supply at an expense of \$25.00; the tenant claims \$150.00 to clean out the blockage in the other trailers sewage outlet with another tenant which took them four hours; the tenant seeks \$100.00 per day for 18 days being without power and water to the sum of \$1,800.00; the tenant seeks the sum of \$354.46 for a repair to the landlords power box under the tenants trailer; the tenant seeks an additional \$75.00 for another round trip to Campbell River; and the tenant seeks a loss of income for April 19, 2012 of \$300.00 as the tenant had to take that day from work to deal with some of these issues. The total amount of the tenants claim is \$4,229.46.

The property manager testifies that he was only informed of the problem with sewage back up on April 06, 2012. The park manager testifies that he contacted a contractor who managed to unblock the pipes. This contractor found a piece of plastic and lots of candy wrappers stuck in the pipe. The building manager testifies that there are two other homes on this sewage system, they use the same tank but different lines and have had no problems with sewage back up, the other trailer #7 was vacant at the time of this incident. The building manager suggests that the tenant's children have put things down the toilet which blocked the tenant's sewage line.

The park manager testifies that the water line had to be shut off because they had to do some work on the electrical system under the tenant's trailer. The fuses were checked and were working fine. The park manager testifies that they called an electrical contractor on April 06 and this contractor was able to get to the park on April 10, 2012. The contractor checked the fuses and found them to be fine. This contractor also went under the tenant's home and checked the park wires to the electrical box and these wires were all fine. The electrician did find that there was not full power to the tenant's home as one of the tenant's wires coming from his home was compromised as it was split in half. The wire had old tape on it and did not connect correctly. The park manager testifies that the tenant is responsible for all connections from the trailer to the park box. The landlord therefore disputes the tenant's claims.

### Analysis

I have reviewed the documentary evidence and testimony of the parties attending. With regard to the tenants claim for money owed or compensation for damage or loss; I have applied a test used for damage or loss claims to determine if the claimant has met the burden of proof in this matter:

- Proof that the damage or loss exists
- Proof that this damage or loss happened solely because of the actions or neglect of the respondent in violation of the Act or agreement
- Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
- Proof that the claimant followed S. 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance the burden of proof is on the claimant to prove the existence of the damage or loss and that it stemmed directly from a violation of the agreement or contravention of the Act on the part of the respondent. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. Finally it must be proven that the claimant did everything possible to address the situation and to mitigate the damage or losses that were incurred.

I find that the tenants claim for compensation does not meet all of the components of the above test. The tenant did not appear at the hearing and the tenants advocate had little knowledge of the events leading up to the tenants claim. The tenant has provided insufficient evidence that the landlords are responsible for the sewage back up that resulted in the tenants children having to stay four days and nights at the nanny's house and the tenant has provided insufficient evidence to show that all or any of the tropical fish died or the replacement costs for these fish. The landlord's park manager has disputed the tenants claim and contradicts the tenant's submissions concerning the landlord's responsibility for the tenant's loss of power and water. Consequently, I find the tenant has not shown that the

sewage failure resulting in loss of power and water is the landlord's responsibility and not the fault of the tenant or of the tenants systems under the tenant's mobile home.

I further find the tenant has provided no corroborating evidence to support his claim for mileage costs, fuses or loss time at work. Without corroborating evidence to support this claim it becomes one person's word against that of the other and the burden of proof is not met

### Conclusion

The tenant's application is therefore dismissed without leave to reapply.

The landlord's application is dismissed with 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 *Manufactured Home Park Tenancy Act*.

Dated: June 22, 2012.

---

Residential Tenancy Branch