



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, OLC, PSF, RP, RR

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution, seeking a monetary order for compensation or losses under the Act or tenancy agreement, and orders for the Landlord to comply with the Act, to make repairs to the rental unit, to provide services or facilities required, and to allow the Tenant to reduce rent for repairs or services agreed upon but not provided.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided 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.

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure, however, I refer to only the relevant facts and issues in this decision.

### Preliminary Matter

I note that during the hearing the Landlord and his Agent appeared to have little understanding of the legislation regarding tenancies in this Province. The Landlord and Agent's behaviour during the hearing, such as laughing inappropriately, indicated a flippant attitude toward the law and the hearing process. The Landlord suggested that the legislation only favours the Tenant. I explained to the Landlord that the legislation favours those who follow it.

### Issue(s) to be Decided

Is the Tenant entitled to a monetary order?  
Is the Tenant entitled to a rent reduction?  
Should the Landlord be ordered to comply with the Act?

### Background and Evidence

The Tenant moved into the rental unit on June 1, 2012. The rental unit has shared bathroom and kitchen facilities. The Tenant pays \$500.00 per month in rent, which includes heat. The Tenant testified that the Landlord did not use a written tenancy agreement.

The Tenant testified that since he moved into the rental unit there has been no heat, and alleges the Landlord has turned the heat off.

The Tenant testified that he had to clean the bathroom extensively when he first moved in, as it was very dirty. The Tenant testified that one of the other occupants and the Landlord do nothing to keep the rental unit clean, and he has to clean the common areas himself, including the bathroom and kitchen.

The Tenant testified that he has tried to discuss these issues with another renter at the property, who fails to keep the common areas of the rental unit clean. The Tenant testified that this renter "flips out" when he asks him to help clean or to clean a mess he has created.

The Tenant testified and submitted that he was in the bathroom at the property when this other renter kicked in the bathroom door and threatened him with violence. This other renter also kicked or punched a hole in the drywall at the rental unit. The Tenant has called the police and they are investigating. The Tenant now has a restraining order regarding the other renter.

The Tenant claims that another person, who no longer rents at the property, continues to return to the rental unit and enter it. The Tenant alleges he has had several items stolen from the rental unit due to this. Apparently this person has also threatened the Tenant.

The Tenant testified that he informed the Landlord two weeks after moving into the rental unit that the other renters were not doing their share of the cleaning. He testified he did not provide this to the Landlord in writing.

In reply, the Agent for the Landlord testified that the other occupant kicked in the bathroom door because the Tenant would not let him into the bathroom. The Landlord alleges that this renter was a good tenant and he had no problems with him until the Tenant moved in. They allege the Tenant will not let the other renter into the bathroom.

The Landlord explained he does not have written tenancy agreements because he likes to have people move in and see if they are a fit first.

The Landlord testified he shut the heat off in the rental unit in the summer. The Landlord testified that the heat is now on a timer, which shuts off during the day, because the renters do not need heat during the day.

The Landlord testified he was going to be evicting the Tenant following the hearing.

### Analysis

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

I find the Landlord has breached section 28 of the Act by failing to provide the Tenant with quiet enjoyment of the rental unit. The Landlord must ensure the Tenant is not unreasonably disturbed at the rental unit, even if it is shared with other renters. The Landlord must not allow other renters to interfere with the Tenant's right to quiet enjoyment. The Landlord has provided no evidence that he has taken steps to protect the Tenant's rights, such as a warning to, or ending the tenancy of, the renter who kicked in the bathroom door while the Tenant was in the bathroom.

While the Landlord has little control over a former renter who is now off the property, the Landlord is responsible to make sure the rental unit property is safe from being entered by former renters, by making sure the locks and other means of preventing access are functioning correctly and that past renters, or other unwanted intruders, do not have access. This might require changing the locks at the building. Nevertheless, I find the Landlord has failed to provide the Tenant with this in the rental unit and this is a breach of section 32 of the Act.

I also find that the Landlord has failed to provide heat as required by the oral tenancy agreement between the parties. This is a breach of section 27(1) of the Act. The Landlord may not terminate or restrict a service or facility without following the procedure in section 27 of the Act.

The Landlord has also breached section 13 of the Act by failing to provide a written tenancy agreement.

Section 67 of the Act states:

Without limiting the general authority in section 62(3) [*director's authority*], if damage or loss results from a party not complying with this Act, the regulations or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

I find the breaches of the Act and oral tenancy agreement by the Landlord have caused the Tenant to suffer a loss.

The Tenant did not put his complaints in writing and give them to the Landlord until he filed this Application. Therefore, I must determine when the Landlord first knew about these issues in order to determine when the losses began to occur. Based on the testimony of the parties, and the incidents reported by the Tenant, I find the Landlord knew of the Tenants' complaints regarding the unit in September of 2012. Therefore, I find that the Tenant has suffered a loss of quiet enjoyment in the rental unit for September and October, and that the Landlord has restricted the heat contrary to the tenancy agreement, and he has failed to ensure the rental unit common areas are clean, and I award \$200.00 per month, for a total of **\$400.00** for these losses.

I find the Tenant has shown the Landlord must be ordered to comply with the Act. Therefore, I make the following orders:

I order the Landlord to not turn off the heat or restrict its use by the Tenant in the rental unit;

I order the Landlord to make sure that the locks and other means of access to the rental unit are functioning properly and can prevent unwanted intrusions;

I order the Landlord to ensure the Tenant has quiet enjoyment of the rental unit; and

I order the Landlord to ensure the common areas are being cleaned in the rental unit.

I allow the Tenant to reduce his rent by \$200.00 per month, until the Landlord complies with the above orders.

When the Landlord has complied with the above orders, the Landlord may file an Application, pay the filing fee for it, and must provide sufficient evidence to prove these orders have been completed and then request the rent be returned to the amount agreed to in the tenancy agreement.

Conclusion

The Tenant is granted a monetary order for **\$400.00** for losses suffered due to the Landlord's breach of the Act. The Landlord may pay this amount or the Tenant may deduct it from rent due to the Landlord.

Furthermore, the Tenant may reduce his rent by **\$200.00** per month, until such time that the Landlord complies with the orders made in this Decision and makes his own Application to have the rent returned to the original amount in the oral tenancy agreement, as described above.

The Landlord is strongly urged to become aware of the laws relating to tenancies in this Province. I have provided a guidebook for the Landlord's future reference along with this Decision.

This decision is final and binding on the parties, unless otherwise provided under the Act, and is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: October 29, 2012.

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Residential Tenancy Branch