



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC

### Introduction

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This is an application for a monetary order for \$21,882.76 for alleged damages and losses incurred by the applicants over the term of a six-year tenancy.

### Background and Evidence

The applicant's claim that:

1. The landlord ran over their hose with the lawnmower. The replacement cost for that hose is \$89.50.
2. Some Harley-Davidson boots were ruined due to mold growth that occurred due to a roof leak in August 19, 2009. Replacement cost for those boots is \$201.60.
3. A tablecloth was stained as a result of a leak that occurred in the dining room on January 16, 2012. Replacement cost for that tablecloth is \$27.90.
4. They have had a loss of use of their storage room since August 19, 2009 due to a leaky roof in the storage room, and therefore they're asking for damages of \$50.00 per month for 35 months for a total of \$1750.00.
5. They were harassed by the landlords for the full term of their tenancy and therefore they're asking for \$5000.00 damages for harassment.
6. They had a loss of quiet enjoyment and privacy for the full term of the tenancy due to noises from the neighboring property, and problems with the rental unit,

and therefore they're asking for \$5000.00 in damages for loss of use and enjoyment.

7. There were health and safety violations during the full term of the tenancy such as electrical problems, unsafe roof problems, sewer vent problems, fire hazards, the neighbors having outdoor fires during a bad fire season, the neighbor burying the garbage in the backyard near the water source/well, and continuing to do building on the rental unit even after a stop work order was issued. They are therefore asking for damages in the amount of \$5000.00 for the health and safety violations.
8. They also did a total of 56 hours worth of labor helping to do repairs, general labor, and snow removal at the rental property for which they were never paid. They are therefore asking for a total of 56 hours X \$15.00 per hour for a total of \$840.00.
9. We also believe there was extensive hydro-loss for the full term of the tenancy due to improper insulation, windows that did not close properly, roof leaking, landlord's usage of power during repairs, doors that would not close, pipes that would freeze, and a ceiling that was coming apart. They estimate the loss of hydro over the term of the tenancy to the \$1800.00.
10. They also have a Honda generator that has stopped working due to rain pouring on it numerous times during to roof leaks. The cost to replace that generator is \$500.00 for a used generator; a new generator would have been \$1099.00.
11. They also have vehicle damage from rock chips from the neighbor's lawnmower and from logging trucks, plus numerous carwashes. They're asking for \$1500.00 for that vehicle damage.
12. They also had to rent a storage locker in June of 2012 as they feared possible damage or loss to their contents if they left them on the property. The cost of the storage locker was \$173.60.

They have supplied video and photo evidence that they believe supports their claims of harassment, damages, and loss of use and therefore ask that their full claim be upheld.

Before moving to the respondent's evidence I will state that I will not consider the claims for the Harley-Davidson boots, nor the Honda generator, as this damage occurred in 2009, more than three years before the claim was filed. The Statute of Limitations to file a claim is two years from when one becomes aware of the right to file a claim and therefore is my decision that these items are outside the Statute of Limitations.

In response, the respondents have argued:

1. They admit that their father (who is not a landlord but is a neighbor) ran over the tenant's hose, however the hose was not damaged, and the applicants have provided no evidence to show otherwise.
2. (Claim for Harley-Davidson boots not considered).
3. The tenants did mention that there was a leak in the dining room in January of 2012; however there was no mention of any damaged tablecloth. Further we fail to see why the tablecloth was not cleaned rather than replaced as there is a washer and dryer in the rental unit.
4. The area the tenants are calling a storage room was actually a mud room for entering and leaving the rental unit and the tenants were even advised that they should not use it for a storage area. Further, they have suffered no loss as a result of not being able to use the mud room for storage as there is ample storage in the rental property.
5. They absolutely deny the tenants were harassed for the full term of their tenancy, and in fact they were on good terms with the tenants for the majority of the tenancy, and these claims of harassment did not arise until after the tenants got into dispute with the landlords father shortly before the end of the tenancy. They believe this claim has been filed simply because the tenants were angry with having been evicted from the rental unit.
6. They absolutely deny that there was a loss of quiet enjoyment. The tenants do have the right to expect reasonable quiet enjoyment of the rental property, however that does not give them the right to total quiet. This is a large rural property, and it's not unreasonable to expect that there were be things like lawnmower sounds, children playing, and even logging trucks delivering winter firewood. And again they believe this claim has only been brought forward because the tenants are angry with having been evicted from the rental unit.
7. The tenants have provided no evidence to show any health or safety violations at the rental property. The tenants have made allegations of electrical problems, mold, fire hazards, and environmental problems; however they have provided no evidence other than some videos, in support of these allegations. Further all the videos/photo evidence was taken after the dispute arose near the end of their tenancy. If all these health and safety violations existed for the full term of their tenancy why were no claims filed with the Residential Tenancy Branch during the term of the tenancy.
8. The tenant did help do some work around the rental property and the landlords were always willing to accept his help, however there was never any agreement that the tenant would be paid for this help other than on a couple of occasions where the tenant was given a reduction in rent as a result of the labor given by the tenant.

9. This is an older trailer, and the tenants cannot expect that it will be insulated to the level of a modern house. Trailer walls are much thinner, and the insulation is far less, and therefore electrical bills will go up in the winter months. The tenants agreed when they rent the unit that they would be responsible for the electrical costs.
10. (Claim for Honda generator is not considered)
11. Vehicle damage has been alleged by the tenants; however they have provided no evidence to show that any damage was caused by the landlords. The video evidence shows a lawnmower being used well away from the vehicle, and shows a logging truck driving by the vehicle, however none of the videos show any damage occurring.
12. They do not believe that they should be paying the tenants storage locker fees. The tenants rented the storage locker after they found out they were going to have to move, and it was likely a choice they made to ensure they had sufficient space for all their items. Further there is no reason that they should have feared damage or loss as a result of anything done by the landlords and therefore the landlord should not be held liable for the cost of the storage locker.

They therefore ask that this full claim be dismissed, and request that all video evidence be destroyed.

### Analysis

It is my decision that the applicants have not met the burden of proving any of the claims.

1. The video evidence provided by the tenants does show their hose being run over, however the hose appears to be undisturbed and does not show any damage whatsoever.
2. As stated above I will not consider the claim for the Harley-Davidson boots.
3. I also deny the claim for replacing a tablecloth as I fail to see why the tablecloth could not have been washed after being leaked upon, Further is my finding that the landlords would not be liable for this damage anyway, as they had no way of knowing that the roof they had just replaced with leak.
4. It is also my finding that the tenants have not shown that they suffered any loss of use as a result of leaking in the storage/mud room. I accept the landlords testimony that there is still ample storage in the rental property and that this area was not meant as a storage area.
5. Tenant stated that they feel their video and picture evidence shows that they were harassed for the full term of the tenancy, however having viewed the video

evidence is my finding that the evidence paints a picture of tenants who are harassing the neighbors when the neighbors are attempting to do normal daily chores, and are harassing children playing on the neighbors property. In the confrontations shown in the videos, it's the tenant that comes across as the aggressor.

6. It is also my finding that the tenants have not suffered any measurable loss of use and enjoyment of the rental property. The tenants have, in fact, had the benefit of a neighbor who took care of their lawn mowing for them, who loaned them a garden plot, and who cleared snow in the winter, all of which were not required in the tenancy agreement, however the tenant seem to believe that because the garden equipment made noise they are hard done by. It's my finding that the sounds made by the garden equipment are normal sounds that one should expect when living in a rural property. Further although there was some inconvenience caused when the roof at times leaked, again it's my finding that there was not a significant loss of quiet enjoyment. It is also my finding that the landlord dealt with the leaking roof in a reasonable manner.
7. The tenants alleged numerous health and safety violations; however they provided no evidence from any Government or health authorities stating that there were any health or safety violations at the rental property. Further some of the allegations relate to things taking place on the adjoining property and the applicants have provided no evidence to show how this affected their health and safety.
8. The landlords have admitted that the tenant did do some labor at the rental property, however there is no evidence to show that the landlords were ever told that the tenant expected compensation for the assistance given. I'm sure the tenants would not expect the landlords to submit a bill to them for lawn mowing, snow removal etc.
9. It is also my finding that the tenants have not met the burden of proving that they suffered any Hydro loss due to any shortcomings of the rental unit. This is an older manufactured home and the tenants cannot expect that an older manufactured home will have the same level of insulation as a newer home or even a newer manufactured home. Therefore it's not unreasonable to expect that Hydro costs would increase substantially in the colder months, as this rental unit is heated electrically.
10. As stated previously the claim for the Honda generator will not be considered.
11. It is also my finding that the tenants have not met the burden of proving that the landlords or the landlord's neighbor/father caused any damage to their vehicle. The video evidence provided by the tenants does not show any damage occurring. I therefore have no way of knowing whether damage on the vehicle resulted at the rental property or elsewhere.

12. I also deny the claim for storage fees. The tenants claim that they feared damage or loss if they left their contents at the rental property; however there is no evidence to show that the landlords were likely to cause damage or loss to the tenant's property.

### Conclusion

I believe the landlords are probably correct in their assumption that this application was filed as retaliation by the tenants for having been evicted from the rental property, or in response to the claim filed by the landlords.

This application is dismissed in full without leave to reapply.

The landlords have requested an order that the video/photo evidence be destroyed; however I have no authority to do so. The video and photo evidence supplied to the Residential Tenancy Branch will be held in the file at the Residential Tenancy Office.

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: January 17, 2013

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Residential Tenancy Branch

