



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      FF, MNR, CNC, MNDC, O, OLC

### 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 and their witnesses the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties and the witnesses.

All testimony was taken under affirmation.

### Issue(s) to be Decided

This decision deals with two applications for dispute resolution, one brought by the tenant, and one brought by the landlords; however at the beginning of the hearing the landlord stated that her claim has been fully satisfied, and she is therefore withdrawing her application.

I therefore dealt with the tenant's application for dispute resolution, which is a request to cancel a Notice to End Tenancy given for cause and a request for a Monetary Order for \$2500.00. The applicant had also requested recovery of his \$50.00 filing fee

### Background and Evidence

The tenant testified that:

- The landlord has not given him a written Notice to End Tenancy for cause, however she did verbally tell him he had to move out of the rental unit.

- He is asking for \$2500.00 compensation for having to put up with harassment from the landlord.
- As a result of the harassment he has decided he should move out of the rental property however he believes he should be paid the \$2500.00 for the following reasons:
  - He had costs to move into this rental property just a few months ago.
  - He got rid of some of his furniture to move into this rental property, and now will have to buy some more.
  - He will have costs to move out of this rental property.
  - He has done improvements to the rental property and believes he should be compensated for those improvements.
  - He has had no quiet enjoyment of the rental property due to ongoing harassment by the landlord.

The landlords testified that:

- I have not been harassing the tenant, the tenant rents the upper suite at this rental property and does not rent the shop below however the tenants seems to believe that I have no rights to enter shop below the rental unit.
- When the tenant moved in he was informed that I would be attempting to rent out the shop below his suite, however he became increasingly irritated over the possibility of that shop being rented.
- Over the term of the tenancy I've been to the rental property approximately 5 times, cleaning out the shop, and for some reason the tenant does not like me being there. I was not there to harass the tenant.
- The tenant was not renting the shop area and so it was none of his business what I was doing in the shop.
- I totally deny harassing the tenant and in fact it's the tenant who's been making threats against me.

### Analysis

It is my finding that the applicant has not met the burden of proving that he has had to put up with ongoing harassment.

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case other than one video that shows the landlord and tenant having a heated discussion, it is basically just the applicant's word against that of the respondent and that is not sufficient, even with the video, to prove a claim of ongoing harassment.

Further the applicant has provided no evidence of the costs to move into the rental unit, no evidence of the costs of the alleged furniture he sold, nor has he provided any estimates of the costs of moving out of the rental unit, or cost of the improvements he claims to have done.

### Conclusion

The tenant's application for a \$2500.00 Monetary Order is dismissed in full without leave to reapply.

The tenant has not received a Notice to End Tenancy for cause, and therefore there is no need for me to issue any order setting a notice aside.

I further order that the tenant bear the \$50.00 cost of the filing fee he paid.

As stated above, the landlord has withdrawn her application.

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: May 30, 2013

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Residential Tenancy Branch

