



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing was convened by way of conference call in response to the tenants' application for a Monetary Order for money owed or compensation for damage or loss under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement; and to recover the filing fee from the landlord for the cost of this application.

Service of the hearing documents, by the tenants to the landlord, was done in accordance with section 89 of the *Act*, sent via registered mail on February 22, 2013. Mail receipt numbers were provided in the tenants' documentary evidence. The landlord was deemed to be served the hearing documents on the fifth day after they were mailed as per section 90(a) of the *Act*.

The tenants appeared, gave sworn testimony, were provided the opportunity to present evidence orally, in writing, and in documentary form. There was no appearance for the landlord, despite being served notice of this hearing in accordance with the *Residential Tenancy Act*. All of the testimony and documentary evidence was carefully considered.

### Issue(s) to be Decided

Are the tenants entitled to a Monetary Order for money owed or compensation for damage or loss?

### Background and Evidence

The tenants testify that this tenancy started on July 01, 2012. Rent for this unit was \$1,150.00 plus \$100.00 for Hydro per month and was due on the 1<sup>st</sup> of each month. The tenancy ended on January 21, 2013.

The tenants testify that the landlord gave the tenants a Two month Notice to End Tenancy for landlord's use of the property at the end of December, 2012. The effective date of that Notice was February 28, 2013. The tenants' testify that they paid their rent and Hydro for January, 2013 on January 12, 2013 and they gave the landlord a 10 day notice to end the tenancy effective on January 21, 2013.

The tenants' testify that the landlord sent the tenants a cheque for their compensation month's rent for the Two Month Notice. However the landlord only paid the tenants \$1,150.00. The tenants seek to recover the additional amount of \$100.00 which they paid each month for Hydro.

The tenants testify that the landlord also returned the amount of \$370.96 for the 10 days in January that the tenants were not residing in the unit. The tenants testify that this amount should have been \$403.22 as it should have included the prorated reimbursement for Hydro that was paid in January, 2013. The tenants seek to recover the sum of \$32.26 from the landlord.

The tenants testify that they incurred additional costs due to having to move from this rental unit. The tenants seek to recover the cost of \$156.80 for having the mail redirected; \$29.95 for the transfer of the tenants cable service; and the sum of \$13.89 for the Hydro account activation fee. The tenants seek to recover a total amount of \$289.06 from the landlord and have provided documentary evidence of these costs.

The tenants seek additional compensation from the landlord for a loss of quiet enjoyment of the rental unit. The tenants' testify that in October, 2012 the landlord had a glass panelled door installed between the tenants' living room and the landlord's entrance hall. This left the

tenants with a lack of privacy in their living room and by the removal of the wall this created a noise issue for the tenants with anyone coming to the landlord's front door. The tenants' testify that the landlord also had hard wood flooring installed in the entrance hall which created more sound transference for the tenants. The tenants testify that the landlord did provide a curtain rod for the tenants to hang a curtain to cover the door but this was not practical due to the age of the daughter and the fact that their daughter had just started to crawl and a curtain may have posed a risk to their daughter. The tenants' testifies that they had to cover each of the nine panes of glass with paper for privacy.

The tenants' testify that the landlord also had a propane tank installed outside one of the tenants' living room windows. The tenants' testify that this unsightly tank had devalued their tenancy as the view from this window was a feature of the unit. This tank was also installed in October, 2012.

The tenants testify that the landlord replaced the carpet in the tenants unit with hardwood flooring. However this left the cables, which had previously been located out of sight under the carpet, loose on the flooring. The tenants testify that there was nowhere to now locate the cables and this became a safety hazard for their young child who had just started to crawl and explore. The tenants testify that the transoms in the doorways were also cracked and posed a risk to their child.

The tenants have provided photographic evidence of the glass door, the cables, the cracked transoms and the propane tank outside their window in documentary evidence. The tenants have also provided a copy of a letter sent to the landlord in December highlighting these issues. The tenants testify that the landlord did not take any steps to remedy these issues and did not respond to the tenants' letter. The landlord's recourse was to first serve the tenants with a One Month Notice which was later rescinded and then the Two Month Notice was served. The tenants seek compensation from the landlord of \$1,578.68.

### Analysis

I have carefully considered all the evidence before me, including the sworn testimony of the tenants. With regard to the claim for the sum of \$100.00 as the shortfall in their

compensation for the Two Month Notice equivalent to one month's rent. I find as the landlord has returned the sum of \$1,150.00 to the tenants and their rent was this amount the tenants would not be entitled under the *Act* to also receive compensation for Hydro fees paid. Therefore this section of the tenants claim is denied.

With regard to the tenants claim for further compensation for the 10 days of rent paid for January. I uphold the tenants claim to recover the sum of **\$32.26** from the landlord as this has been calculated as rent and Hydro costs paid by the tenants for January of \$1,250.00 at \$40.22 a day X 10 days. Therefore the landlord should have returned \$403.22 not \$370.96.

With regard to the tenants claim to recover the sum of \$289.06 for costs incurred by the tenants in moving and setting up services; the only compensation allowed under the *Act* is the amount equivalent to one month's rent. This amount is to compensate the tenants for moving costs after a Two Month Notice has been served to the tenants. There is no provision under the *Act* for any further compensation to be awarded and consequently this section of the tenants claim is denied.

With regard to the tenants claim for compensation for a loss of quiet enjoyment and the devaluation of the tenancy; I have considered the tenants claim and I find the tenants' privacy was reduced when the landlord replaced the wall with a glass paneled door. I further find the landlord reduced the value of the tenancy when the propane tank was erected outside the tenants' window thus restricting the tenants view and replacing a pleasant view with a view of a propane tank. I also find the landlord had hardwood flooring put down in the tenants unit but failed to secure the wiring which constituted a safety hazard particular in light of the fact the tenants had a young child at the crawling stage.

The tenants notified the landlord of their concerns with these issues along with the increase in noise from the landlord's suite which was more keenly heard once the wall was removed and hardwood flooring fitted in the entrance way outside the glass door. The landlord failed to ensure the tenants concerns were addressed appropriately. Consequently I find in partial favor of the tenants claim for compensation for a loss of quiet enjoyment and because a level of the tenancy was devalued. I have considered the tenants' claim of \$1,578.68 and

find this claim will be limited to **\$1,000.00** as a truer reflection of the loss of quiet enjoyment the tenants suffered.

As the tenants have been partially successful with their claim I find the tenants are entitled to recover the **\$50.00** filing fee from the landlord. A Monetary Order has been issued to the tenants for the following amount pursuant to s. 67 and 72(1) of the *Act*.

Balance of rent due for January	\$32.26
Compensation	\$1,000.00
Filing fee	\$50.00
Total amount due to the tenants	\$1,082.26

#### Conclusion

I HEREBY FIND in partial favor of the tenants' monetary claim. A copy of the tenants' decision will be accompanied by a Monetary Order for **\$1,082.26**. The order must be served on the respondent and is enforceable through the Provincial Court as an order of that Court.

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 16, 2013

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Residential Tenancy Branch

