



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Topaz Worldwide Limited  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNSD, MNOPSD

### Introduction

This was an application by a tenant for compensation for loss of use of her unit, alternate accommodation and cost of emergency repairs all resulting from a broken water tank and sewage flooding. The landlords by way of cross application sought an Order for Possession and a monetary Order for unpaid rent.

### Issue(s) to be Decided

Are the landlords entitled to an Order for Possession and Monetary Order?

Is the tenant entitled to compensation?

### Background and Evidence

The landlord's agent testified that the tenancy began on June 1, 2012 with rent amounting to \$ 2,800.00 due on the 1st day of each month. The landlords received a pet and security deposit amounting to \$ 2,800.00 on May 15, 2013. The landlords claimed the tenant did not pay any rent for May 2013.

The tenant testified that she did not pay her rent in May 2013 because the landlords' refused to reimburse her for mould remediation labour she and her mother claimed as a result of a burst water tank on or about October 7 to 9, 2013. The tenant also claimed

for the cost of remediation, alternate accommodation, loss of rent and pet accommodation as a result of a subsequent sewage backup. The tenant admitted not paying any rent for May 2013 and agreed to move out on June 15, 2013.

### Analysis

The tenant's claim for the labour of mould remediation is not an emergency repair as defined by section 32 of the Act and therefore the tenant did not have a right to withhold rent for that month. The rest of the tenant's claims are not related to the issue of whether the tenant had a right to withhold any portion of her rent. Furthermore the tenant had not produced any supporting evidence for those claims and admitted that she was not ready to proceed with them at this date. Therefore in accordance with Rule 2.3 of our Rules of Procedure I have determined that I will not deal with all the dispute issues the tenant has placed on her application. For disputes to be combined on an application they must be related. The claims on her application are not sufficiently related to the main issue to be dealt with together. Therefore, I only will deal with whether the landlord is entitled to an Order for Possession and a Monetary Order for non-payment of rent based upon the landlord's Notice to End Tenancy. I have dismissed the tenant's claims with liberty to re-apply.

Because I have found that the tenant did not have a lawful right to withhold rent, the landlord is entitled to recover the sum of \$ 2,800.00 representing rent for May 2013.

The parties settled the rest of the landlord's claim as follows and they have asked that I record the agreement pursuant to section 63(2) as follows:

- a. The parties agreed to end the tenancy on June 15, at 1:00 PM and that the landlords shall have an Order for possession accordingly.
- b. The parties agree that the tenant will empty the car port by June 5, 2013 at 6:00 PM and the landlords will sort and remove all of the tenant's belongings from

the basement, place them in the car port and clean and disinfect the basement. The landlords will pay for the cost of this process without prejudice to the landlords' right to claim for the recovery of same against the tenant should it be determined that the tenant is at fault for the water and or sewage leakage into the basement.

### Conclusion

I have granted the landlords an Order for Possession. This order may be filed in the Supreme Court and enforced as an Order of that Court. I order that the landlords retain the deposit and interest of \$ 2,800.00 and I grant the landlord an order under section 67 for the balance due of \$ 50.00 representing the filing fee paid by them herein. This order may be filed in the Small Claims Court and enforced as an order of that Court. This Decision and all Orders must be served on the tenant as soon as possible. I have dismissed all of the tenant's claims with leave to reapply. There will not be any recovery of the tenant's filing fee.

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: June 03, 2013

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Residential Tenancy Branch

