



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC, FF

### Introduction

This is an application filed by the Tenant for a monetary order for the cost of emergency repairs, for money owed or compensation for damage or loss and the recovery of the filing fee.

Both parties attended the hearing by conference call and gave testimony. As both parties have attended and have confirmed receipt of the notice of hearing and evidence packages submitted by the other party, I am satisfied that both parties have been properly served.

### Issue(s) to be Decided

Is the Tenant entitled to a monetary order?

### Background and Evidence

This Tenancy began on September 1, 1995 and ended on November 30, 2012. The monthly rent was \$1,250.00 at the beginning of the tenancy and ended at \$1,670.00. A security deposit of \$625.00 was paid.

The Tenants seek a monetary claim of \$24,410.68. This consists of \$18,744.07 for the loss of use of a recreation room in the basement due to water flooding that occurred. The Tenant claims that this amount is based upon 16.42% of the yearly rent on the loss of the affected square footage of the recreation room from January 1, 2007 to November 30, 2012. The Tenant also seeks \$4,566.16 for the loss of use of an upstairs bedroom (10ftX8ft.) because items from the basement recreation room had to be stored in the bedroom for which they suffered a 4% loss based upon square footage. The Tenant seeks \$205.64 for the cost of a storm line inspection and a \$154.81 for the recovery of a humidifier/dryer rental.

The Landlord disputes the claim of the Tenants stating that at no time has the Tenant ever notified them of any problems with the basement recreation room. The Tenant disputes this stating that he had verbally notified the Landlord of the problem many times. The Landlord states that prior to July of 2008 her father dealt with all tenancy issues and would have dealt with any upon being notified. The Tenant states that he had talked to the deceased Landlord many times over the recreation room. The Landlord's Agent states that she is not aware of any discussions with her father and the Tenant over tenancy issues, but that the Tenant has never brought forward any issues with the tenancy until this application for dispute was filed. The Tenant, E.K. confirmed this in his direct testimony. The Tenant, E.K. has also stated that he never gave notification to the Landlord prior to any work done or received any permission from the Landlord to have the plumbing inspection or the equipment rental. The Tenant, E.K. has also stated that he never demanded payment of these invoices until the application for dispute resolution was filed.

### Analysis

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

The Tenants have failed to establish a monetary claim. I find that the Tenants have not provided sufficient evidence to satisfy me that the Landlord was properly notified of any damages or that the Landlord failed to act causing any neglect on the part of the Landlord. I also find that the Tenants have failed to provide sufficient evidence of proof of an actual amount for any losses. Based upon the evidence of both parties, the

Tenant took it upon himself to perform all maintenance issues regarding the rental property without first informing the Landlord or obtaining the permission of the Landlord for any possible reimbursements.

Conclusion

The Tenant's monetary claim is dismissed without leave to reapply.

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: September 25, 2013

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Residential Tenancy Branch

