



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes MT CNL OPR MNR MNSD MNDC LRE OPT AAT FF O

### Introduction

This hearing dealt with applications by the landlord and the tenant. At the outset of the hearing the parties confirmed that the tenancy had ended; accordingly, I dismissed the portions of both applications regarding notices to end tenancy and other orders related to the tenancy. I only heard evidence regarding the parties' respective monetary claims.

Each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. I have reviewed all testimony and other evidence. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

Is the landlord entitled to monetary compensation as claimed?

### Background and Evidence

The rental unit is in the lower portion of a house, with the landlord occupying the upper portion of the house. The tenancy began on July 1, 2011, with monthly rent of \$900. The tenant was also to pay one third of electricity costs. The tenancy agreement indicated that the rent included a washer and dryer located in the rental unit. At the outset of the tenancy the tenant paid the landlord a security deposit of \$450.

On July 20, 2013, the landlord served the tenant with a two-month notice to end tenancy for landlord's use. On August 1, 2013 the tenant gave the landlord written notice that she would be vacating the rental unit by August 30, 2013. The tenancy ended on August 31, 2013.

The parties agreed that the tenant was entitled to compensation equivalent to one month's rent, pursuant to the two-month notice, and the tenant therefore would not be responsible for August 2013 rent. The tenant also acknowledged that she owed the landlord \$900 for July 2013 rent and \$313.68 for outstanding utilities. This was the total of the landlord's monetary claim, aside from the \$50 filing fee for the cost of their application, which I will address below.

The tenant applied for compensation of \$1800 for loss of quiet enjoyment and \$500 for moving expenses. She stated that the landlord's wife frequently yelled at the tenant about various topics, including flushing the toilet; not closing her windows; using the air conditioner; and using her washer and dryer. On one occasion the landlord's wife came into the rental unit and shut off the tenant's dryer. In January 2013 the landlord's wife told the tenant that the tenant's boyfriend could not spend the night in the rental unit and have sex with the tenant because this was a family home. In July 2013 the landlord's wife was displeased because the tenant had her boyfriend monitoring and flipping some chicken on the outdoor barbeque. The tenant had initially applied to dispute the notice to end tenancy for landlord's use, but she stated that after the July 2013 incident, she felt she had to move out.

The landlord's response to the tenant's claim was that he never heard about his wife yelling at the tenant. The landlord stated that the addendum to the tenancy agreement indicated that the backyard of the property was for the landlord's exclusive use.

### Analysis

I find that the landlord is entitled to his claim of \$1213.68, as the tenant acknowledged that she owed the landlord this amount.

In regard to the tenant's claim, I do not accept the landlord's position that he never heard about his wife yelling at the tenant. The tenant clearly outlined the basis of her monetary claim in her application for dispute resolution, and her application was served on the landlord in mid-August 2013. The landlord chose not to have his wife provide testimony or a written statement to dispute the tenant's evidence. I therefore accept the tenant's evidence that the landlord's wife frequently yelled at the tenant and interfered with the tenant's quiet enjoyment of her unit. The behaviour of the landlord's wife was entirely inappropriate and interfered with the tenant's rights under the Act as well as set out in the tenancy agreement.

I find that the tenant is entitled to some compensation for loss of quiet enjoyment, but I do not find that her claim of \$1800 is reasonable. The tenant paid rent for several

amenities during the tenancy, not only for quiet enjoyment. If the landlord's wife was acting inappropriately early in the tenancy, it was open to the tenant to make an application for an order that the landlord comply with the Act or other orders. I therefore find that the tenant is entitled to 25 percent of her rent for the last two months of occupancy, for a total of \$450.

I find that the tenant is not entitled to compensation for moving expenses, as she chose to move out rather than to dispute the notice to end tenancy, and she did not provide invoices or receipts to prove her moving costs. I therefore dismiss this portion of the tenant's application.

As the landlord's application was successful, he is entitled to recovery of the \$50 filing fee for the cost of his application.

As the tenant's application was only partially successful, I find she is not entitled to recovery of the filing fee for the cost of her application.

### Conclusion

The landlord is entitled to \$1263.68. The tenant is entitled to \$450. I offset the landlord's award by the tenant's award for a balance of \$813.68 owed to the landlord. I order the landlord to retain the security deposit of \$450 in partial compensation of this amount, and I grant the landlord an order under section 67 for the balance due of \$363.68. This order may be filed in the Small Claims Court and enforced 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: October 10, 2013

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Residential Tenancy Branch

