



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Lookout Solutions to Homelessness  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNDC, ERP

### Introduction

This hearing was scheduled in response to the tenant's application for a monetary order as compensation for damage or loss under the Act, Regulation or tenancy agreement / and an order instructing the landlord to make emergency repairs for health or safety reasons. Both parties attended and gave affirmed testimony.

### Issue(s) to be Decided

Whether the tenant is entitled to the above under the Act, Regulation or tenancy agreement.

### Background and Evidence

The subsidized unit which is the subject of this dispute is located in a 12 storey building within which are located a total of 130 separate units.

Pursuant to a written tenancy agreement, a copy of which is not in evidence, the month-to-month tenancy began on May 16, 2012. The tenant's portion of monthly rent is \$375.00 and it is due and payable in advance on the 31<sup>st</sup> day of each month. A security deposit of \$250.00 was collected.

On August 31, 2014 a fire sprinkler was activated in a unit located one floor up from the tenant's floor. Significant water damage occurred throughout the building. Water entered the tenant's unit and, as a result, some drywall was removed and a dehumidifier was located within her room. As well, both elevators in the building were inoperable for a period of time, and presently only 1 elevator is functioning.

The tenant claims that the dehumidifier led to general discomfort and headaches, with the result that she relocated to another resident's room from September 03 to 19, 2014. She testified that the dehumidifier has now been replaced with a fan, which she turns off

at night. The tenant also claims that the location of the dehumidifier impeded her ability to prepare meals in her room, and as a result she spent more money eating out.

The landlord's agent testified that a community kitchen facility is available to residents, and efforts were made to offer help with meals for all those who appeared to require such assistance as a result of the disruption from flooding. The landlord's agent also testified that the tenant declined an offer to be temporarily relocated to another facility.

Finally, the landlord's agent testified that the insurance claim has now been processed and full scale restoration work is expected to begin very shortly.

### Analysis

Section 27 of the Act addresses **Terminating or restricting services or facilities**. Further, Residential Tenancy Policy Guideline # 22 speaks to "Termination or Restriction of a Service or Facility," and provides in part:

Where there is a termination or restriction of a service or facility for quite some time, through no fault of the landlord or tenant, an Arbitrator may find there has been a breach of contract and award a reduction in rent.

Section 28 of the Act addresses **Protection of tenant's right to quiet enjoyment**. As well, Residential Tenancy Policy Guideline # 6 speaks to "Right to Quiet Enjoyment," and provides in part:

- **Claim for damages**

In determining the amount by which the value of the tenancy has been reduced, the Arbitrator should take into consideration the seriousness of the situation or the degree to which the tenant has been unable to use the premises, and the length of time over which the situation has existed.

Based on the documentary evidence and testimony, I find that through no fault of either party, flooding in the building led to a temporary restriction of a service or facility, mainly the elevator(s). I also find that flooding led to a temporary breach of the tenant's right to quiet enjoyment, mainly the removal of damaged drywall and the installation of an unavoidably noisy dehumidifier in her unit. I also find, however, that the landlord undertook in a timely manner to respond to the flooding and to ensure that the administrative process for completing necessary repairs was begun as soon as

reasonably possible. Further, I note that the landlord offered temporary alternate accommodation to the tenant which she declined.

In the result, I find that the tenant has established entitlement to a claim in the limited amount of **\$50.00**, and I hereby issue a **monetary order** in favour of the tenant to that effect.

In view of the remedial repairs which are expected to be fully underway in the immediate future, I find there is no requirement to issue an order instructing the landlord to make emergency repairs for health or safety reasons. Accordingly, that aspect of the tenant's application is hereby dismissed.

### Conclusion

Pursuant to section 67 of the Act, I hereby issue a **monetary order** in favour of the tenant in the amount of **\$50.00**. Should it be necessary, this order may be served on the landlord, 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: September 24, 2014

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Residential Tenancy Branch

