Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNR, MNDC, MNSD, LAT, RR, O

Introduction

The hearing was originally scheduled for August 12, 2014 to deal with a tenant's application for: a Monetary Order for cost of emergency repairs; damage or loss under the Act, regulations or tenancy agreement, and return of the security deposit; authorization to change the locks; authorization to reduce rent payable; and, other issues. All of the tenants appeared on August 12, 2014 and two persons appeared on behalf of the landlord. Prior to the hearing of August 12, 2014 the landlord had submitted to the Residential Tenancy Branch that he would be represented by a tenant, JJ, and his employee LJ at the August 12, 2014 hearing as he may be unavailable to attend due to an unrelated court appearance. The tenants appeared at the August 12, 2014 hearing and the landlord was represented by JJ and LJ.

Preliminary and Procedural matters

A cross application had also been filed by the landlord on July 30, 2014 and was scheduled to be heard on August 12, 2014 but that Application was dismissed, with leave, during the hearing as the tenants denied receiving the landlord's Application for Dispute Resolution and JJ and LJ were unable to provide proof of service. A separate decision was written with respect to the landlord's Application for Dispute Resolution filed on July 30, 2014 and should be read in conjunction with this decision. It was also noted in the decision written August 12, 2014 that the tenants appeared with the expectation that this hearing would deal with their request for a review hearing for an Application for Direct Request filed by the landlord on July 14, 2014; however, the tenant's Application for Review Consideration was dismissed on July 31, 2014 and the parties were informed that this hearing was not for the purpose of holding a review hearing.

I noted that by way of submissions received from the tenants on July 24, 2014 it was apparent the tenants wished to introduce another matter under dispute: their requirement to pay utilities. The tenants had requested in their submission that they be "released" of their liability to pay utilities. The tenants had not indicated on their Application for Dispute Resolution that utilities were a matter to be resolved for this hearing and the tenants had not amended their Application in a manner that complies with the Rules of Procedure so as to deal with the issue of utilities. Further, the landlord had made a claim for utilities under his Application for Direct Request filed on July 14, 2014 which was awarded to him on July 21, 2014. As a decision had already been

made with respect to utilities and decisions are final and binding, subject only to review provisions, I found that it would be inappropriate for me to consider the tenant's request to be "released" from a provision in their tenancy agreement retroactively as that would affect a decision already issued. Therefore, should the tenants be of the position their obligation to pay 60% of the utilities is unconscionable they retain the right to file another Application for Dispute Resolution to raise that issue and seek compensation that to recovery utilities paid to the landlord or an award that would offset utilities awarded to the landlord.

At the outset of the hearing the tenants confirmed that they were still residing at the rental unit; therefore, I found their request for return of the security deposit to be premature and dismissed that portion of their Application with leave.

The tenants did not indicate the nature of emergency repairs for which they paid; nor, did they provide any proof of payment with respect to emergency repairs; therefore, I did not consider that request further pursuant to section 59 of the Act which requires an applicant to provide sufficient particulars of the matters under dispute.

As the parties were informed, I would hear and made a decision with respect to matters clearly identified on the Application for Dispute Resolution. The tenants claimed compensation of $4,200.00 and provided the following details of dispute on the Application:

> "Refund 2 months rent for loss of peaceful enjoyment of the home. Restrain landlord from contacting tenants except in writing. Compensate tenant for losses, damages and costs incurred. Punitive damage police report filed against landlord."

[reproduced as written]

Since rent was $1,700.00 per month and the equivalent of two months of rent is $3,400.00 and the tenants were asked to clarify what the remaining balance of $800.00 represented. The male tenant stated that $800.00 represented the scrap value of a vehicle that was damaged on the residential property for which they seek to hold the landlord responsible. I proceeded to consider the claims for $3,400.00 for loss of quiet enjoyment and $800.00 for damage to a motor vehicle.

The balance of the hearing time on August 12, 2014 was spent hearing the tenant's basis for claiming compensation from the landlord. After the tenants presented their case the hearing was adjourned due to time constraints, before the landlord's position could be heard. The adjournment was also a means to address service issues identified during the hearing, as follows.

During the hearing of August 12, 2014 the tenants testified that they had included copies of emails in their digital evidence submission. While I had received printed copies of emails I noted that I did not have digital evidence before me. The tenant claimed that she had obtained

a written receipt from a staff person with the Branch showing that digital evidence was served upon the Branch on July 30, 2014. The tenant also stated the digital evidence was served upon the landlord by a process server on August 5, 2014; however, JJ and LJ indicated they were unaware of any digital evidence being served upon the landlord. I ordered that the tenant to provide a copy of the receipt provided to her by the Branch and I ordered the tenants to re-serve the digital evidence during the period of adjournment.

On October 14, 2014 tenant DA appeared at the hearing approximately 12 minutes after the hearing had commenced and stated she was also representing the other two tenants. I informed the tenant that I had already dismissed the tenant's Application for Dispute Resolution due to failure to appear within 10 minutes of the commencement of the reconvened hearing. The tenant stated she would file a Request for Review on the basis she had difficulty connecting to the teleconference call. The tenant claimed that she had attempted to connect to the teleconference call at 9:05 a.m. despite the hearing being scheduled for 9:30 a.m. Although the landlord was skeptical of the tenant's reasons for calling in late, he was agreeable to proceeding with the hearing so as to avoid the risk of a review hearing at a later date.

The tenant requested to be informed of submissions the landlord had made to me before she connected to the teleconference call. The only relevant submissions I had heard from the landlord in the absence of the tenant was that the tenants had vacated the rental unit on September 5, 2014. The tenant confirmed that they had vacated the rental unit since the last hearing. As the tenants have since vacated the property, I found the tenants' request for authorization to change the locks of the rental unit was moot as was their request for authorization to reduce future rent payable.

I proceeded to discuss the evidence that was served upon the Branch on October 10, 2014 and noted that this was after the deadlines provided under the Rules of Procedure. The tenant stated that she had intended to serve the digital evidence on October 6 or 7, 2014 but that she was hospitalized on those dates. I was not provided any explanation as to why the other two tenants were unable to deliver the evidence. Nevertheless, the landlord confirmed that he received digital evidence on October 10, 2014 but denied receiving digital evidence on August 5, 2014 or on any other date before October 10, 2014 as the tenants had claimed at the previous hearing date. Although service of evidence on October 10, 2014 was later than the deadline provided in the Rules of Procedure, the landlord confirmed that he had the opportunity to view the images on the compact disc. The tenant stated that there were also emails on the disc. I accepted the disc into evidence and its content was evaluated in making this decision out of an abundance of fairness to the tenants.

On another note, during the hearing of October 14, 2014 the tenant indicated this matter is currently before the Supreme Court. Upon further exploration of this declaration, I determined that the tenants have filed a Judicial Review with respect to the landlord's Application under the Direct Request procedure. As the Direct Request Procedure applies to unpaid rent and/or

utilities I was satisfied that the matters before me were not sufficiently related to the matter before the Supreme Court and that I had jurisdiction to make a decision on these matters.

Finally, it should be noted that during the hearing of October 14, 2014 tenant DA stated that she seeks to be compensated $1,529.00 for the value of the vehicle plus the cost of windshield replacement. As the tenants had claimed $800.00 by way of their Application, as confirmed at the August 12, 2014 hearing, and the tenants had not amended their application or otherwise put the landlord on notice as to the this increased request for compensation I limited their claim to $800.00 as originally claimed.

Issue(s) to be Decided

1. Have the tenants established an entitlement to compensation for loss of use and quiet enjoyment?
2. Have the tenants established an entitlement to compensation for damage to their personal property, a motor vehicle while parked on the residential property?

Background and Evidence

The tenancy commenced February 1, 2013 and the tenancy agreement provides that the tenants were to pay rent of $1,700.00 on the 1st day of every month and that the tenants were responsible for paying 60% of utilities. The rental unit was on the main level of a house and at the start of the tenancy a suite in the lower level was occupied by another tenant, JJ. During the tenancy, a second suite on the lower level was renovated and rented to another tenant, TC. The parties were in dispute as to whether a third unit was created on the lower level; however, it was undisputed that another occupant, JJ's mother, was also residing in the lower level.

Although I heard a considerable amount of testimony and received a considerable amount of evidence and submissions, with a view to brevity, I have summarized the parties' respective positions below.

Loss of use and quiet enjoyment

The tenants seek compensation of $3,400.00 for loss of use and quiet enjoyment of the property. Below, I have summarized the tenants' reasons and the landlord's responses.

1. Construction noise

The tenants submitted that from the period of August 2013 through to January 15, 2014 the tenants suffered from on-going construction noise every day between the hours of 7 a.m. to 5:00 p.m. as well as on weekends and, at times, late into the evening. The tenants submitted that some of the construction related to the repair of their sundeck but much of it related to the creation of two additional rental suites on the lower level. The tenants described how tradesmen were in the unit; there was hammering on the support beams below them so great that their

couches were bouncing on the floor; the construction work caused the dogs in the unit below them to bark; and, construction debris was left outside and on the stairs.

The landlord refuted that construction took place for the extended time frame as described by the tenants and submitted that one could build an entire house in less time than that described by the tenants. The landlord testified that repairs were made to the tenants' deck in October 2014 as evidenced by his invoice for deck resin purchased on October 17, 2014. The landlord testified that a previously unused suite required repairs to the drywall and flooring from the leaking sundeck and that these repairs took place over the period of mid-November 2014 through to January 15, 2014. TC then began renting that suite starting in February 2014.

The tenant submitted that construction was more than drywall and flooring as there was not more than one pre-existing suite on the lower level and that TC's suite was formerly a carport and storage room. The tenants also submitted that a third suite on the lower level was constructed during their tenancy.

The landlord denied creation of a third suite and described a "sleeping room" that he constructed for use by JJ's mother. The "sleeping room" was formerly a storage space and the construction activity for the "sleeping room" was largely drywall and flooring installation. The landlord testified that the City inspected the property recently and that the "sleeping room" was a compliant use but that TC's suite was non-compliant with land use by-laws.

The tenants were asked to describe their efforts in communicating to the landlord that they were being unreasonably disturbed by the construction noises. The tenants submitted that they approached JJ about the barking of her dogs and that JJ explained her dogs were barking because of construction noise. The tenants submitted that JJ was the landlord's agent even though tenant DA testified that when their tenancy commenced JJ expressly stated that she did not manage the property for the landlord. The tenants also submitted that they verbally asked the landlord to refrain from construction activities until after 8:00 a.m. but this did not happen.

The landlord acknowledged that a request was made to not start construction activity until after 8:00 a.m. and this was complied with, as were the noise by-laws of the City. The landlord denied that JJ was his agent or managing the property on his behalf. The tenant countered that position by pointing out that JJ represented the landlord at the original hearing date and JJ obtained mouse traps when they had a mouse problem at the property. The tenants also complained to JJ when they had an electrical issue. The tenant stated JJ works for the landlord. The landlord responded by stating that he asked JJ to appear at the original hearing because he was unavailable and because she was familiar with the events taking place at the property. The landlord denied that JJ works for him and he stated JJ works for a pest control company which is why she brought home the mouse traps.

2. Loss of use of deck

The tenants submitted that the landlord agreed to repair the sundeck when their tenancy commenced and this was not accomplished until 10 months after the tenancy began. The tenant pointed to a message she sent to the landlord on November 1, 2013 thanking him for the repairs. The tenant testified that on February 25, 2013 the tenant emailed the landlord about a guest's foot going through the deck and then on June 18, 2013 the tenant emailed the landlord again and asked about the deck. The tenants provided a photograph of the sundeck that was purportedly taken on September 28, 2013. The tenants described a "soft" area of approximately 15' x 15' of a total area of 18' x 34'. The tenants submitted that repairs to the deck included new beams, new plywood and new covering over a two month period from August 2013 through to November 1, 2013.

The landlord denied a large soft area on the deck as described by the tenants and he denied that he had agreed to repair the deck at the start of the tenancy. The landlord denied that there were any holes in the deck from a person's foot going through. The landlord described a soft area approximately 3' x 3' and stated that this one area was replaced with new plywood. The landlord acknowledged that water was leaking through the deck covering as he had seen water stains on the ceiling below in the year prior. The landlord was of the position the deck was entirely useable by the tenants except for the few days that were spent re-covering the deck in October 2014.

3. Loss of use and enjoyment of yard

The tenants submitted that there were dangerous trees on the property as evidenced by tree debris laying in the yard and the tree limb that fell in late January 2014. The tenants explained a young child lived with them and after the tree branch fell the tenants no longer felt safe allowing the child to play in the yard. At the original hearing, the tenants stated that verbal requests were made to the landlord to trim the trees since March 2013 and he would not. However, at the reconvened hearing the tenant stated that no requests for tree trimming were made prior to the tree limb falling in January 2014 as the tenants were not responsible for maintaining the trees and because nothing appeared obviously wrong with the trees.

The landlord denied that the tenants requested that he trim the trees before the branch fell in January 2014 and pointed out that the branch fell after a wet snowfall. The landlord also stated that he went to the City to determine ownership of the tree since it very close to the property line between his property and the municipal property. The landlord claims the City clerk pulled out a map and the tree appears to be on the property line so he was advised that he is not permitted to cut the tree down.

The tenant also claimed to have gone to the City to determine who is responsible for the tree and she claims that she was told that it was the landlord's tree to maintain. In the tenant's evidence submission was an email she wrote to the City on July 31, 2014 enquiring as to who is responsible for the 100 year old trees. There was no reply from the City provided in the tenant's evidence.

4. Threats

The male tenant testified that on July 2, 2014 the landlord threatened to kill him and he called the police. The tenant testified that the allegations were hard to prove so charges were not pursued by the police.

The landlord testified that it was the male tenant who was aggressive with him over the telephone on July 2, 2014 and the landlord denied threatening the tenant. Rather, the nature of the telephone call to the tenant was that they pay rent on time. The landlord described how the RCMP contacted him and spoke with JJ's mother and afterward they were satisfied that no threat was made.

Damage to tenant's motor vehicle

The tenants asserted that a tree branch fell on their 1997 Chevy Lumina in late January 2014 while parked in the driveway of the residential property. The tenants claim that the branch damaged the two sides of the car on the hood, windshield post and smashed the windshield. The tenants submitted that the windshield was repaired at a cost of $387.00 and the cost to repair the damage to the body of the car has been estimated at $3,500.00 USD based upon as seen in an email an auto body repair shop in Washington State. The email does not describe the damage or the work to be done for $3,500.00.

The male tenant explained that $800.00 was claimed as this is the scrap value of the car. With respect to insurance, the male tenant testified that the vehicle only had basic liability insurance coverage.

The tenants provided a photograph of a tree branch laying across the hood of a vehicle and leaning against the gutter of the house. Snow on the windshield and hood of the car, as well as on the driveway, is visible in the photograph. The tenants provided other photographs taken close up of the windshield and hood/fender area of the car showing a broken windshield on the upper passenger side and a dent on the hood/fender by the driver side headlight but no snow is visible in these photographs and it is uncertain when these photographs were taken. Also included was a photograph showing damage to the gutter on the house.

At the reconvened hearing, tenant DA testified that the car is registered to her, that it is still operational and she drives it every day but that it is embarrassing to drive the dented car to meet clients. As such, she requested compensation not only for the windshield repair cost but also the estimated value of the car of $1,529.00. As explained earlier in this decision, the tenants' claim for compensation for damage to the car is limited to $800.00.

The landlord denied being responsible for the branch falling or compensating the tenants for vehicle damage, on the following grounds: 1) the tree is not his to maintain as described under part 3. above 2) the branch fell as a result of a wet snow fall 3) the tenants should have adequately insured the vehicle and 4) the car was not damaged to the extent claimed by the tenants as evidenced by the written statement of TC.

The landlord questioned DA's submission that she drives the car every day since he only saw her drive a newer model black Volvo. The landlord questioned whether the vehicle was insured as it rarely moved. The landlord also refuted the tenants' claims as to the extent of damage to the vehicle as the tree did not hit the windshield and the lighter end of the branch was lying on the hood of the car while the heavier end of the branch was leaning against the roof of the house.

The tenants acknowledged that the branch fell after a snow fall but were of the position the landlord was responsible for maintaining the tree as described under part 3. above. However, tenant DA acknowledged that nothing obvious appeared to be wrong with the tree prior to the branch falling.

The tenant submitted that TC's submissions were incorrect and unreliable.

TC was called as a witness and both parties were permitted to ask questions of TC. TC testified that he was residing at the property when the branch fell after the wet snow fall. He observed the heavy end of the branch resting on the house and the lighter end of the branch on the hood of the car, but not on the windshield. TC described the vehicle as being a green/turquoise Oldsmobile or similar model. TC testified that the vehicle rarely moved, except when it was moved to the street, and that it was usually covered in accumulated pine needs. TC stated that he never observed repairs done to the car or the car being driven. TC described other vehicles he observed at the property as belonging to the tenants as a green Mustang, a Volvo, a Ford truck and a Suburban.

Tenant DA pointed out the description of the subject vehicle provided by TC during the hearing was inconsistent his written submission that it was a green Mustang. TC responded by stating that he had not really paid attention to the type of vehicle the night of the snowfall but was focused on the location of the tree branch, which he removed. Further, it was several months later that he learned that the tenants were pursuing the landlord for damages to the vehicle. The tenant suggested TC was influenced by the landlord since he is an employee of the landlord and a tenant.

Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities.

Upon considering everything before me, I provide the following findings and reasons with respect to the claims raised by way of this Application.

Loss of use and quiet enjoyment

1. Construction noise

The tenants provided as evidence several emails they were exchanged between them and JJ in support of their position that they had made the landlord aware of unreasonable disturbances they were experiencing. Upon reading all of the text messages provided, I found only one set of exchanges dated December 24, 2013 that refer to noise that could be attributed to construction. The nature of the complaint to JJ was there her dogs were barking and JJ responded by explaining that it was due to construction activity. The month of December 2013 was one of the months that the landlord acknowledged construction activity was undertaken at the property.

Based upon the above, I am satisfied construction was taking place in December 2013; however, I am inclined to prefer the landlord's submissions that construction in the lower in the lower level was undertaken over a few months as opposed to several hours per day, every day, for 5.5 months as submitted by the tenants to be likely exaggerated.

The parties were also in dispute as to the extent of the noise disturbance. The landlord described activities related to drywall repairs/installation and installation of flooring. Whereas the tenants described bouncing couches they attributed to pounding on support beams. I find the tenants' description of bouncing couches to be, once again, likely exaggerated.

While I have no doubt that the tenants experienced some degree of disturbance due to construction in the lower level, I find I am uncertain as to the actual extent of their experience given their exaggerated descriptions. Furthermore, where a party files a claim for compensation against the other party, the party making the claim must show that they took reasonable steps to minimize their loss.

I find it reasonable to expect that if the tenants were bothered to the extent they claim, which I have already found to be exaggerated, the tenants would have complained to the landlord, or the City, or file an Application for Dispute Resolution sooner.

I find the tenant's text message of December 24, 2014 to JJ is not equivalent to complaining to the landlord. I find the December 24, 2013 was sent to JJ because the tenants were bothered by the barking of JJ's dogs and I reject the tenant's submission that the text message was sent to JJ as the landlord's agent or property manager considering the tenant testified that JJ expressly informed the tenants she was not the manager.

Based upon all of these considerations, I make no award to the tenants for construction noise as I am not satisfied as to the extent of their loss or that they took reasonable steps to mitigate their loss.

2. Loss of use of deck

On the balance of probabilities, I accept that the deck was in need of repairs and the landlord was aware of this since before the tenancy commenced since he testified that he had observed water leaks on the ceiling below the deck in the year prior. I also see an email from the tenant to the landlord in February 2013 advising the landlord that a guest "almost" fell through and they refer to an earlier statement from the landlord that he had for the deck to dry out. Therefore, I am satisfied that the period of time for which the deck required repairs was from February 2013 through to and including October 2014 for which the tenants are entitled to compensation.

I acknowledge that deck repairs and replacing the deck covering are often done when the deck and underlying structure is dry and that it may be appropriate to wait until favourable conditions are present. However, where a tenant's ability to use space for which they are entitled to use under the terms of their tenancy is diminished, even if there is no fault of the landlord, the tenants are entitled to compensation for breach of contract.

The area of the deck that was "soft" was in dispute. The landlord did not provide any photographs of the deck and the tenants provided one which I have used to conclude that a significant portion of the sundeck was affected, and, as a result, I accept that approximately one-half of the deck was affected based upon the tenant's measurements.

Where a tenant suffers a loss of use of an area, an award to the tenant is usually based upon the area affected. However, the area affected in this case was exterior space and I find an exterior space to be less valuable than finished living space. Further, an exterior space likely has greater value to a tenant in some seasons (ie: spring and summer) than other seasons where an exterior space is less likely to be enjoyed (ie: fall and winter). Therefore, I estimate an appropriate award to be calculated as:

February - April 2013 and October 2013: 5% of the monthly rent
Plus:
May through September 2013: 10% of the monthly rent
= the value of the deck as a whole
Multiplied by 50% representing the area of deck affected
= compensation for portion of deck unusable during tenancy

I have not made any award for compensation for November 2013 and the tenant thanked the landlord for the repairs on November 1, 2013.

Based on the above formula, I award the tenants the following amount for loss of use of the deck:

4 months x $1,700.00 x 5% = $340.00
Plus:
5 months x $1,700.00 x 10% = $850.00
= $1,190.00 x 50%
= $595.00

3. Loss of use and enjoyment of the yard

Upon review of the photographs provided to me it is apparent there are several trees on or adjacent to the subject property and tree debris falls on to the subject property. Tree debris such as pine needles, pine cones, twigs and the like are part of the nature of living in close proximity to trees. Thus, living in amongst large trees comes with pros and cons, as with most things.

Although a tree branch did fall from a tree in late January 2014 after a wet snow fall, I find there insufficient evidence to conclude the yard was anything other than an isolated incident or that the subject property was any riskier or more dangerous than any other property with or adjacent to large trees.

4. Threats

I find the undisputed verbal testimony insufficient to conclude the landlord threatened the tenant and I make no award for threats.

In summary, I award the tenants a total of $595.00 for loss of use and quiet enjoyment.

Damage to vehicle

Based upon the photographs provided to me, I am satisfied there are tree limbs that overhang the driveway of the residential property. I was provided disputed verbal testimony as to the location of the tree relative to the property line and the party responsible their maintenance. However, even where the base of a tree is located on another person's property, the owner of an adjacent property may trim branches that overhang their property. Therefore, even if the base of the subject tree is on City's property, I am satisfied the landlord has the right to trim limbs that overhang his property.

Section 32 of the Act provides that a landlord has a statutory duty to provide and maintain a residential property so that it complies with health, safety and housing standards required by law; and, so that it is suitable for occupation, having regard for its age, character and location.

Residential Tenancy Policy Guideline 16 provides for claims in damages. The guideline provides, in part,

> **Claims in Tort**
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> A tort is a personal wrong caused either intentionally or unintentionally. An arbitrator may hear a claim in tort as long as it arises from a failure or obligation under the Legislation or the tenancy agreement. Failure to comply with the Legislation does not automatically give rise to a claim in tort. The Supreme Court of Canada decided that where there is a breach of a statutory duty, claims must be made under the law of negligence. In all cases the applicant must show that the respondent breached the care owed to him or her and that the loss claimed was a foreseeable result of the wrong.
>
> [my emphasis added]

Where property is damaged by an unforeseen event it is upon the landlord to repair the rental unit and residential property. The tenant's insurance generally covers damages or loss a tenant may incur as a result of an unforeseen event. Damage to a tenant's property or other losses, other than the loss of use of the rental unit, are not the responsibility of the landlord unless the landlord has been negligent in the duty owed to the tenant.

As the applicants, it is upon the tenants to show that the fall of the tree limb was a result of the landlord's negligence. Negligence is the failure to exercise the degree of care considered reasonable under the circumstances, resulting in an unintended injury to another party. Accordingly, I have considered all of the evidence before me to determine whether the tenants have shown that the landlord acted unreasonably or that the landlord knew or ought to have known that the tree limb was in imminent risk of falling on the property. .

Given tenant DA's testimony at the reconvened hearing that there was nothing obviously wrong with the tree before the tree limb fell, and in the absence of any documentation to show the tenants requesting the landlord deal with dangerous tree limbs prior to the limb falling, I am satisfied that the landlord was unaware the tree limb was at imminent risk of falling. Considering the limb fell after a snow fall I am satisfied this was an unforeseen event that was not anticipated and not within the landlord's control. Therefore, I find each party shall bear their respective losses as a result of the tree limb falling on their own property.

In summary, I dismiss the tenants' claim for compensation for damage to their vehicle.

Conclusion

The tenants have been awarded compensation totalling $595.00 for loss of use and quiet enjoyment of the property.

The tenants' request for return of the security deposit was premature and dismissed with leave to reapply.

The tenants remain at liberty to file a separate application with respect to compensation for utilities if they so choose.

The balance of the tenant's requests and claims were either moot or dismissed.

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 31, 2014

Residential Tenancy Branch