



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Sutton Group ProAct Realty  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, ERP, RP, AS, RR, FF

### Introduction

This is an application filed by the tenant for a monetary order for money owed or compensation for damage or loss, an order for the landlord to make emergency repairs for health or safety concerns, an order for repairs to the unit, site or property, an order allowing the tenant to assign or sublet because the landlord's permission has been unreasonably withheld, an order allowing the tenant to reduce rent for repairs, services or facilities agreed upon but not provided and recovery of the filing fee.

Both parties attended the hearing by conference call and confirmed receipt of the notice of hearing package and the submitted documentary evidence of the other party.

The tenant submitted late evidence which was received by the Branch on November 28, 2014. The landlord confirmed receiving the package on November 30, 2014. The tenant stated that he wished to call ahead another RTB file which the tenant has filed. The tenant clarified that this additional file was with the landlord, but was not related as it is an application for an order to cancel a notice to end tenancy. As such, this request to add the additional file regarding possession of the rental unit is unrelated and I decline to grant this request. The hearing shall proceed on what was applied for in this application.

The tenant's application for dispute has failed to provide sufficient details for the landlord to respond to and as such the tenant's claim is limited to the details provided on the application and not as per the email evidence that the tenant refers to.

During the hearing the tenant withdrew his request for an order for emergency repairs of \$530.00 and \$1,200.00 for harassment by the landlord.

During the hearing the tenant failed to provide any details concerning the application for \$4,435.00 for a frustrated agreement, an order for emergency repairs for health of

safety concerns, an order for repairs to the unit, site or property, an order to be allowed to assign or sublet the as the landlord has unreasonably withheld consent and an order to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided. As such these portions of the tenant's application were dismissed during the hearing.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order?

### Background and Evidence

This tenancy began on August 1, 2010 on a fixed term tenancy ending on July 31, 2011 and then thereafter on a month to month basis as shown by the submitted copy of the signed tenancy agreement. The monthly rent is \$2,200.00 payable on the 1<sup>st</sup> of each month and a security deposit of \$1,100.00 was paid on July 29, 2010.

The tenants seek a monetary claim of \$16,600.00 which consists of \$10,000.00 for services not provided for 50 months at \$200.00 per month and \$6,600.00 for a non-functioning house from October to December of 2014.

The tenant states that the landlord agreed to suspend paying 3 months of rent of \$6,600.00 so that the tenant could renovate the kitchen in lieu in 2012. The tenant states that the landlord served the tenants with a 10 day notice to end tenancy issued for unpaid rent when rent was not paid. The tenant also states that the landlord failed to upgrade the rental property during the tenancy for an additional \$200.00 per month. The tenant clarified that the rent was originally \$2,000.00, but amended to \$2,200.00 for the upgrades. The landlord disputes the claim made by the tenant, stating that no upgrades were promised to the tenant. The tenant states that this agreement was verbal and that he has no supporting evidence. The tenant also states that he is seeking recovery of 100% of the rent of \$6,600.00 for the months, October to December of 2014 as he states that the house is non-functioning, but that he is currently residing there. The tenant stated he is unable to provide any specific details for the claim.

The landlord's written statement disputes the tenant's claims of \$10,000.00 for services not provided. The landlord refers to the tenants statement, "Initially for two years we got excellent support to make sure we were comfortable". The landlord states that this is contradictory to the tenant's claim of services not provided between August 2010 and September 2014.

### Analysis

I accept the evidence provided by both parties and find that the tenant has failed in his application for a monetary claim. The onus or burden of proof lies with the party who is making the claim. In this case it lies with the tenant. When one party provides evidence of the facts in one way and the other party provides an equally probable explanation of the facts, without other evidence to support their claim, the party making the claim has not met the burden of proof, on a balance of probabilities, and the claim fails. I also find that the tenant's documentary evidence was contradictory to his direct testimony. The tenant has failed to provide sufficient evidence to satisfy me of the monetary claim and on a balance of probabilities the monetary claim is dismissed.

### Conclusion

The tenant's application is 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: December 02, 2014

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Residential Tenancy Branch

