



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Wilson Roa Professional Corp.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNMDC, RR

### Introduction

This hearing dealt with an application by the tenants for a monetary order, including reimbursement of emergency repairs, and an allowing the tenants to reduce the rent for repairs, services or facilities agreed upon but not provided.

The hearing was scheduled for January 16, 2015. Both parties appeared. The tenant advised that the previous day a bailiff had evicted them from the rental unit pursuant to an writ of possession granted on another Residential Tenancy Branch Application on December 13, 2014. The tenants had applied for a review of that decision but their application was denied. The tenants were very upset.

I explained to the tenants that this hearing was not the forum in which the previous decisions could be re-examined but that I could hear their application for a monetary order.

I swore the male tenant in and started to hear his evidence on their claim. One of the main elements of the claim filed by the tenants was the costs associated with the construction of a fence.

After of few minutes of me attempting to elicit details about the tenancy agreement and the fence male tenant lost patience. He told me that we were just wasting time and he wanted to make a statement. His statement included representations about the agreement made at the last hearing, the manner in which the landlord had sabotaged that agreement, the work they had done to the property, and allegations of fraud and impropriety against the landlord. After the making the statement – which was quite lengthy – the male tenant wanted to hang up.

When I advised the tenants that if they hung up the outcome of the hearing would be a decision that their application was dismissed, the female tenant advised that she did not want that to happen.

The landlord, the female tenant and I agreed that since the tenants were so upset by the events of the previous day that it would be better to adjourn the hearing to a new date and start again, after the tenants had had a chance to settle themselves.

The hearing was adjourned to February 3, 2015 at 1:00 by consent of all the parties.

The hearing reconvened on February 3 and all parties appeared.

The male tenant was asked to continue his testimony. Once again, I attempted to elicit details about the tenancy agreement and the particulars of the tenants' claim.

As soon as I started asking questions about the fence the male tenant said he wanted to put the whole fence issue aside for a few minutes – the fence did not matter to him – he wanted to talk about his real issues.

The tenant proceeded to make a general statement about the various repairs done on the rental unit, to read from e-mails that had not been filed in evidence, and to talk about repairs that had not been paid for. When I asked questions in an attempt to clarify what the tenants were actually claiming and the documents he was referring to, the male tenant became very agitated.

The male tenant wanted to walk away from the claim. He and the female tenant had an argument about whether they were going to proceed or not and then they hung up. A few minutes later the female tenant came back on the line saying that she wanted to proceed on the claims that related to her; which did not include any claims related to the fence.

I heard the oral testimony of the female tenant and the landlord on those items only. From time to time the tenants had a brief discussion/agreement between themselves.

At the end of the hearing the male tenant said he wanted to ask the landlord three questions. The questions related to the order of possession and writ of possession so I refused to allow them.

Issue(s) to be Decided

Are the tenants entitled to a monetary order and, if so, in what amount?

### Background and Evidence

The rental unit is a house. The original agreement was between the landlord and a tenant named NC. NC had other roommates but he was the only person named on the tenancy agreement. NC collected the rent from the roommates and paid the rent to the landlord.

At first the tenants rented the garage from NC. In mid-February 2014 NC contacted the landlord and advised that he intended to move out and the male tenant could take over the tenancy agreement. The landlord told NC the new tenants would have to complete an application for tenancy and pay a security deposit.

NC subsequently advised the landlord that he wanted the security deposit he had paid assigned to the new tenancy. NC and the male tenant signed a document on February 18, 2014, in which NC agreed to release the damage deposit of \$600.00 to the male tenant on the condition that the male tenant took responsibility for the drywall repairs that were required.

On February 20 the landlord and the male tenant met for the first time. The tenant signed an application for tenancy. On the application the rent was stated to be \$1200.00 per month.

The landlord testified that a tenancy agreement was never signed because the March 1 rent was late.

The female tenant testified that when they first moved in the B C Hydro and Fortis accounts were put in her name. The agreement was that the bills would be split evenly between her and the landlord. One half was attributed to the upper unit, where they lived, and the other to the lower unit, which was to be paid by the landlord.

The landlord testified that the agreement was that he would pay the landlord's half upon presentation of the paid bill. If the bill was not marked paid he was prepared to pay the landlord's half directly to the utility company. In this way he was assured that his payment went to the utility.

The female tenant testified that when she agreed to put the accounts in her name she did not understand, nor did she agree, to paying the bills first and then waiting for reimbursement. She testified that she wanted the payment made to her.

The landlord filed invoices from BC Hydro which showed that he paid half of the March 27 and May 28 invoices directly to B C Hydro by a check dated July 14, 2014. He said

he was never presented with any other invoices from BC Hydro. The tenant filed a copy of the disconnection notice dated July 11, 2014. She did not file any other invoices from BC Hydro.

The tenant said the hydro was disconnected in November and when it was reconnected it was in someone else's name. She said the final account was \$860.51; that she has asked the landlord for payment of half, and that he has failed to make that payment.

The landlord testified that the disconnection on November 14 was the second time the hydro had been disconnected.

The landlord filed a copy of BC Hydro's demand for a reconnection fee dated November 10, 2014. The demand is addressed to a third party; who the female tenant said is a tenant in the downstairs unit and a friend of theirs. They had applied to put the hydro in his name. The landlord submitted a Money Mart receipt, which he said was the payment made by the tenant. He paid the balance of \$186.00 directly to BC Hydro on December 2, 2014; which the tenant acknowledged.

The female tenant testified that the Fortis account is still in her name. She filed an invoice dated November 26, 2014, in the amount of \$499.78. She said she had other invoices which she had not filed.

The landlord filed copies of the Fortis invoices dated October 22 and November 26 which show that he paid half of each invoice directly to Fortis. In her testimony the tenant acknowledged that it looked like the payments had been made.

When the tenants took over this property there were two other people living in the house and paying rent. They both decided to move out.

The tenants entered into a sublet agreement with SH. He was to pay them \$500.00 per month. SH was receiving social assistance, who provided him with the security deposit and a shelter allowance. The female tenant said the arrangement was that SH's rent was to be paid directly to the landlord. She believes that the landlord received payment for May on behalf of SH but did not credit that payment to the rent they owed the landlord.

The landlord said he received one cheque from the Ministry made payable to the landlord in the amount of \$200.00. That evening the male tenant paid the balance of the rent. The landlord gave a receipt for the full rent payment but did not specify that \$200.00 of that payment was the Ministry cheque.

The landlord testified that the male tenant presented him with a Ministry cheque made payable to SH, not the landlord, so he refused to accept it. He testified that he never received any rent cheques from the Ministry on behalf of SH.

The tenant claims reimbursement in the amount of \$561.75 for invoices paid to a pest control company. The paid invoice is dated August 8, 2014 and the follow-up work order is dated September 9, A large portion of each document is illegible but it appears that the invoice is \$35.00 for rodent control, \$185.00 for bed bug control, and application taxes for a total of \$561.75.

The female tenant testified that she gave the paperwork to the male tenant but she was not sure if it was ever given to the landlord.

The landlord testified that in July the male tenant spoke to him about rat sightings and they had had a previous conversation about bed bugs. He told the tenant he was prepared to send his pest control company over but the male tenant said he would take care of it. He had not received these invoices until presented with the tenants' evidence package. His usual bill for pest control is about \$300.00.

It is acknowledged that the tenants did considerable work at the rental unit. This included cleaning up debris and yard waste and loading it into big bins.

From time to time the male tenant would prepare a purchase order made out from him to the landlord. Each purchase order was dated, described the work done, and stated an amount for the work. When he did testify the male tenant acknowledged that all of the purchase orders had been paid by the landlord. These payments were applied to rent due to the landlord.

The female tenant says that these purchase orders only represent payment of the male tenant's labour, not hers, and only represent what the landlord was prepared to pay. She thought that some of the invoices presented by the male tenant originally included her labour but when the landlord and the male tenant negotiated her labour may have been dropped. She did not participate in these discussions.

She filed a handwritten undated sheet of paper to show that she was keeping track of her hours. The document is not a log but appears to be a list that was prepared all at once.

The landlord testified that he paid all accounts presented to him.

Finally, the tenant claims a rent reduction of \$600.00 because garbage that they had picked up was left piled in the driveway for a month before the landlord arranged to have a dumpster delivered.

#### Analysis

On any claim for damage or loss the party making the claim must prove, on a balance of probabilities:

- that the damage or loss exists;
- that the damage or loss is attributable solely to the actions or inaction of the other party; and,
- the genuine monetary costs associated with rectifying the damage.

With regard to the BC Hydro account, the only invoices filed by either party are from the spring and the evidence is that the landlord did pay half of those invoices. There is no documentary evidence to show what other amounts, if any, were billed to the female tenant. This claim is dismissed.

The evidence shows that the landlord has paid half of the Fortis invoices directly to Fortis. This claim is dismissed.

There is no evidence that SH made arrangements with the Ministry to have his rent paid directly to the landlord; let alone that the landlord received payments from the Ministry and did not credit the tenants for payments received. The male tenant could have responded to the landlord's evidence that he was only presented with a cheque made payable to SH but he did not. This claim is dismissed.

A landlord is responsible for the cost of pest control. The tenants should have presented this invoice to the landlord earlier but their delay does not nullify their claim. Enough of the documentation is legible to show that the services were rendered at the rental unit and the invoice was paid. The amount charged is within the range usually charged for similar services. The claim is allowed.

The female tenant's claim for payment of her labour is dismissed. When one co-tenant presents invoices for work done and negotiates payment for that work, they do so on behalf of all the other co-tenants. If the female tenant has an issue it is with the male tenant.

The claim for a rent reduction is dismissed. Clean-up is an ongoing project so there will inevitably be periods when the debris accumulates before it is hauled away. There is no evidence of when the tenants asked that a dumpster be delivered before it arrived at the rental unit.

The tenants did not pay a fee to file this application so no further order is required.

Conclusion

I find that the tenants have established a total monetary claim of \$561.75 and I grant them a monetary order in that amount. If necessary, 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: February 26, 2015

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Residential Tenancy Branch

