



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      PSF, MNDC

### Introduction

This matter dealt with an application by the Tenants for compensation for loss or damage under the Act, regulations or tenancy agreement and for the Landlord to provide services and facilities for the tenancy.

The Tenant said he served the Landlord with the Application and Notice of Hearing (the "hearing package") by registered mail on March 10, 2015. Based on the evidence of the Tenants, I find that the Landlord was served with the Tenants' hearing package as required by s. 89 of the Act and the hearing proceeded with both parties represented.

### Issues(s) to be Decided

1. Has the Landlord stopped providing a service or facility that is part of the tenancy?
2. Have the Tenants incurred a loss or damage under the Act, regulation or tenancy agreement and if so how much?
3. Are the Tenants entitled to compensation for the loss or damage and if so how much?

### Background and Evidence

The Tenant said this tenancy started on February 3, 2015 as a month to month tenancy. Rent was \$800.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant said they paid a security deposit of \$400.00 on February 3, 2015. The Landlord's agent said they do not believe this is a tenancy as there is no tenancy agreement and the Tenants have not paid the rent or the security deposit. The Landlord's agent said the Tenant did pay \$1,000.00 by bank draft but it was made out incorrectly so it was not cashable and the Tenants made a payment of \$200.00 by cheque which the Landlord accepted and deposited. The Landlord's agent said he did not know what the \$200.00 was for. The Landlord's agent said they believe the Tenants are trespassing on the Landlord's property.

The Tenant said they moved to the rental unit on February 3, 2015 and made the payment of \$1,000.00 by bank draft and a payment of \$200.00 by cheque. The Tenant agreed the bank draft had a mistake in the Landlord's name so it was not cashable. In the Tenants evidence the Tenant said the bank required the original bank draft to be returned in order to correct the error. The Tenant's evidence states the Landlord has not returned the original bank draft so the payment has not been replaced. The Tenant said he has not paid the March, 2015 rent of \$800.00 as he is waiting for the results of this hearing.

The Landlord's agent said the Tenants have not paid February, 2015 rent of \$800.00 and the Tenants have unpaid rent for March, 2015 of \$800.00. Further the Landlord's agent the Landlord did not give the Tenants the keys to the unit. The agent said the Tenants got the key from under the mat at the rental unit. The Landlord's agent continued to say the Landlord has not made an application for unpaid rent as they believe there is no tenancy and the Tenants are trespassing. The Landlord's agent said they contacted the Police and the Police directed the Landlord to the Residential Tenancy Branch to resolve the dispute.

Further the Tenant said the Landlord told a worker (S.) at the rental unit to turn the water off to the rental unit on March 4, 2015. The Tenant continued to say he emailed the Landlord on March 5, 2015 about no water in the unit and the Landlord has not turned the water back on. The Tenant said they have been without water since March 4, 2015 and they are requesting compensation from the Landlord for turning off the water. The Tenant said they have had to purchase water and having no water is a great inconvenience. The Tenant said they are claiming \$2,300.00 which is made up of the inconvenience of having no water, extra costs as a result of no water and the cost to move to the unit and the cost to move out of the unit.

The Landlord's agent said they believe the Tenant may have turned the water off and the Tenants have a plan to profit from this tenancy. The Landlord's agent said the Landlord did not tell the worker (S) to turn the water off and the Landlord emailed the Tenants on March 9, 2015 saying that the Landlord knew nothing about the water being turned off. The Landlord's agent was questioned about what the Landlord did after he knew the water was not working at the rental unit. The Landlord's agent said the Landlord did nothing. The Tenant said the water is still not turned on.

The Landlord's agent said in closing that they do not believe this is a tenancy because there is no tenancy agreement and the full rent and deposits were not paid. As well the Landlord's agent said they believe the Tenants have done this under false pretenses and that the Tenants may have done this type of thing before in other tenancies.

The Tenant said in closing that the Trailer Park Manager gave them the key for the unit and the Trailer Park Manager works for the Landlord. As well the Tenant said the water controls are locked so he was unable to access the controls. The Tenant said he did not turn the water off. Worker (S) was told by the Landlord to turn the water off.

## Analysis

**Section 16 of the Acts** says the rights and obligations of a landlord and tenant under a tenancy agreement take effect from the date the tenancy agreement is entered into, whether or not the tenant ever occupies the rental unit.

In this situation the Tenant says there was a verbal tenancy agreement for rent of \$800.00 and a security deposit of \$400.00. The Tenant said they paid the Landlord \$1,200.00 by way of bank draft for \$1,000.00 and a cheque for \$200.00 at the start of the tenancy. Both parties agree the bank draft had an error in the Landlord's name therefore it was not cashable, but the cheque for \$200.00 was accepted and cashed by the Landlord. By accepting the \$200.00 payment from the Tenants the Landlord entered into a tenancy agreement with the Tenants. Consequently I accept the Tenants' testimony and evidence that a verbal tenancy agreement existed between the Tenants and the Landlord. I find the Residential Tenancy Act does have jurisdiction in this situation and the parties will abide by this decision.

First both parties agreed the water is not working at the rental unit and the Landlord has done nothing to correct the issue. Consequently I order the Landlord to turn on or repair the water system at the rental unit immediately. If the water is not working by 5:00 p.m. March 25, 2015 the Tenants are at leave to apply for monetary compensation for additional loss of services that are required under the tenancy agreement whether it is verbal or written. The supply of water to the unit is a required service of the tenancy agreement.

With respect to the Tenants request for monetary compensation in the amount of \$2,300.00 the Tenants must prove the loss happened solely because of the actions of the respondent in violation to the Act.

The Tenants have included in their claim moving costs to the rental unit and potential moving costs from the unit when the tenancy ends. These costs are not the responsibility of the Landlord as they are not part of the tenancy. In any tenancy the tenants are required to move themselves in and out of the unit. In this case when the water issue is resolved the tenancy is restored and the tenancy can continue as agreed. I dismiss the Tenants claims of \$1,640.00 and \$1,100.00 for moving costs.

In regard to the Tenants request for compensation for loss of a service of the water being turned off or not working; I accept the Tenants' testimony and I find the Tenants have established grounds for compensation for the loss of a service that is included in the verbal tenancy agreement. First it is not lawful for the Landlord to turn off the water in a rental unit that is occupied with tenants unless it is for an emergency. This situation was not an emergency and the Landlord could have made an application to the Residential Tenancy Branch to resolve problems with this tenancy. If the Landlord had a dispute with the Tenants the Landlord should have made an application and the Landlord must not turn the water off to resolve issues in a tenancy. I accept the Tenants testimony and evidence that the Landlord turned the water off to the rental unit. Consequently I find in the Tenants favour and I order the Landlord to compensate the Tenants the March, 2015 rent in the amount of \$800.00 for turning the water off. Consequently from this decision the March, 2015 rent \$800.00 is deemed to be paid.

Further for the costs and inconvenience of having no water for 22 days in March, 2015, I award the Tenants \$400.00 to cover costs and inconvenience to the Tenants. I order the award of \$400.00 for loss or damage be applied to the February, 2015 unpaid rent.

### Conclusion

An Order has been issued to the Landlord to supply water to the rental unit by 5:00 p.m. March 25, 2015.

The Tenant has been awarded \$800.00 compensation to be applied to the March, 2015 rent and \$400.00 compensation to be applied to the February, 2015 rent.

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: March 25, 2015

---

Residential Tenancy Branch

