



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding I.B.J. HOLDINGS LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes: MNDC MNSD MNR FF

### **Introduction:**

This hearing dealt with an application by the landlord pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- a) A monetary order pursuant to Section 67 for damage to the property and for unpaid utilities;
- b) An Order to retain the security deposit pursuant to Section 38; and
- c) An order to recover the filing fee pursuant to Section 72.

This hearing also dealt with an application by the tenant pursuant to the Residential Tenancy Act (the Act) for orders as follows:

- d) For compensation for the cost of emergency repairs and other damages;
- e) The return of the security deposit pursuant to section 38; and
- e) To cancel a Mutual End of Tenancy agreement.

### **SERVICE**

Both parties attended the hearing and each confirmed receipt of each other's Application for Dispute Resolution. I find the documents were legally served pursuant to sections 88 and 89 of the Act for the purposes of this hearing.

### **Issue(s) to be Decided:**

The tenant vacated the unit and removed all belongings by March 11, 2015. Has the landlord proved on the balance of probabilities that the tenant did damage to the property, that it was beyond reasonable wear and tear and the amount it cost to fix the damage? If so, what is the amount of the compensation and is the landlord entitled to recover filing fees also?

Is the tenant entitled to compensation for emergency repairs, to the return of their security deposit and to cancel the Mutual Agreement to End Tenancy?

### **Background and Evidence:**

Both parties attended the hearing and were given opportunity to be heard, to present evidence and to make submissions. It is undisputed that the tenancy commenced in

December 2013, that rent was \$1275 a month and a security deposit of \$640 was paid in December 2013. It is undisputed that the tenant paid rent until the end of February 2015. The tenant said they mostly vacated the property by February 28, 2015 but the landlord said the tenant did not finally remove items such as a tent and a swing set until March 11, 2015. The tenant has found another home so is no longer requesting to cancel the Mutual Agreement to End Tenancy.

Both parties described their unfortunate situations. On January 31, 2015, the tenant noticed there was water entering the basement. The property manager inspected on February 1, 2015 and began addressing the issue. The landlord said it cost him about \$20,000 to have the issue investigated and addressed although the result showed it was the fault of leaky pipes of a local water authority. It took about 3 weeks to have work done to stop the water completely. Meanwhile the parties signed a Mutual Agreement to End Tenancy as there appeared to be no quick solution to the problem at the time. The tenants vacated but said they were short of funds so the landlord said he advanced money for a truck and storage unit so they could store their furniture while they found a suitable home. The tenant said she understood that the landlord was to deduct this cost from their February rent which they had paid already. The landlord claims as follows:

1. \$56.95 Water cost for two thirds of the quarterly bill from Jan.-March 2015. The tenant said they had not used so much water during this time due to the ongoing problems and their children were staying with relatives or friends;
2. \$72.45 for professional carpet cleaning. The tenant said she had half cleaned the carpets before her machine broke and she should not be responsible for dirt made by city workers investigating the water issues.
3. \$780 for cleaning and repairs. The tenant agreed with a few of these costs but said she cleaned as well as she could in the circumstances.
4. \$82.41 for U Haul truck
5. \$151.75 for rental of storage unit for tenant.

Invoices were provided for all of the above claims.

The tenant claims as follows:

- A. \$1275: refund of rent for February 2015 as premises were damaged by water. The landlord said that two thirds of the basement was affected but that a bedroom and toys were still there and the tenants were living there.
- B. \$640 refund of security deposit
- C. \$136.62 of this is for excess electricity paid for 3 sump pumps to pump out water. The landlord said this is excessive as the pumps were all low amps and were used for a limited time.

- D. \$3,000 as compensation for work performed to protect the landlord's property. They said they worked 12 hours a day (two adults) charging \$10 an hour to clean up water until February 12, 2015 when the leaking stopped but seepage continued and they still had to continue cleanup. The landlord said they had one vacuum and were out of the house a great deal to deliver children or to keep appointments so he does not understand this time claim. The tenants said friends helped and took care of children, one tenant scooped water with a shovel while the other tenant used the vacuum. They are both on disability so were home and they cancelled all doctors' and other appointments during this time due to the time needed to work at cleanup.

Regarding the damage claim, the tenant said she agreed with the cost of the closet door replacement as they had accidentally caused this damage and the cost of touch up painting to walls she had mudded but disagreed with the other items.

In evidence are two CDs, one from each party, the tenancy agreement, and condition inspection reports done at move-in and move-out. On the basis of the documentary and solemnly sworn evidence presented at the hearing, a decision has been reached.

### **Analysis**

#### **Monetary Orders:**

Awards for compensation are provided in sections 7 and 67 of the *Act* and the onus is on each applicant to prove their claim.

I find the tenant agreed they were responsible for damage to closet doors and painting touch ups of mudded areas. Such doors have a useful life of 20 years assigned in the Residential Policy Guidelines (the Guidelines) which are designed to account for reasonable wear and tear. The evidence is that these doors were of an unknown age in a house built in the 1960s. Therefore, I find the landlord not entitled to recover \$125 for closet door and hardware in the bedroom as the weight of the evidence suggests that they were at the end of their useful life. I find the landlord entitled to recover \$210 as invoiced for touch up of painting which had been done at the tenant's move-in and for which the tenant admitted responsibility at move-out.

I note the move-in and move-out reports and photographs support the landlord's evidence that damage was done to the venetian blinds. The evidence is that the blinds were new in November 2013 and repair or replacement of item costs were \$127; blinds are assigned a useful life of 10 years in the Guidelines so I find the landlord entitled to recover 85% or 107.95 of the costs of items for blinds.

Although the tenant maintained that she had cleaned and her photographs support she did do cleaning in the home, I find the landlord's photographs illustrate many small items such as straws and cereal had fallen into the ducts and the window tracks, lightshade and other items were dirty and the move-out report shows some cleaning was needed. I find the weight of the evidence is that the landlord is entitled to compensation for cleaning the ducts and window tracks and other items listed (\$18+35+35) for a total of \$88. I also find the landlord entitled to recover \$5 for a missing door stop. Items such as screens and light shades are assigned a useful life of 10 years and I find the light shade and screen were 30 months old at the commencement of tenancy so 48 months old at the end so I find the landlord entitled to recover 60% of the cost of the lightshade ( \$18) and of the screen \$36.

I find the Residential Policy Guideline #1 states the tenant is responsible to replace lightbulbs so I find the landlord entitled to recover \$10 for the cost of the missing lightbulbs and I find him entitled to recover \$10 for missing screws in door knobs. In respect to the weather stripping, I find the Guideline assigns a useful life of 5 years to such products so I find the landlord entitled to recover 85% of the \$75 cost of replacing this which was new at the beginning of the tenancy or \$63.75.

I find the photographs of both parties illustrated a lawn dug up and trampled by large machines digging holes for sump pumps which were needed because of the flooding. Therefore, I find it unfair to the tenant to charge them for lawn repair so I find the tenants not responsible to compensate the landlord for filling in holes and reseeding as I do not find it credible that small holes caused by children's play could be separated in cost from the extensive filling and reseeding necessary because of the machine work. In summary of the large invoice of \$780 provided by a contractor, I find the tenant responsible for \$548.70 of this cost for the reasons stated above. I find the move-in and move-out reports and the tenants' statements support their responsibility for these damages.

I find the tenant responsible for the water charge of \$56.95 which represents two thirds of the quarterly invoice from January to March 2015. The landlord submitted an invoice in support showing this as the amount of water used, although the tenant believed she did not use so much. I find the landlord also entitled to recover costs of \$72.45 as invoiced for carpet cleaning. I find his evidence well supported by the photographs and statements of the parties and it is a tenant's responsibility to have carpets cleaned at the end of a tenancy.

The tenant agreed that the U Haul truck and Self Storage unit were for her use but she understood she would be compensated from February rent. I find no written agreement

for the tenant to be compensated for such expenses so I find the landlord entitled to recover \$234.16 for these expenses incurred for the tenant.

In respect to the tenant's claim, I find insufficient evidence to support her claim for \$136.62 for extra hydro use for sump pumps in February. She provided no usual hydro bill or February bill to support her claim and the landlord submitted it was excessive given the size of the pumps. However, I find that there must have been some increase in use of hydro to address the flooding problem as he had to run a vacuum to suck up water many days as well as the use of the pumps. Therefore, I award the tenants a nominal sum of \$70 for excess hydro use in keeping with Policy Guideline 16 as although sufficient proof was not submitted, it is evident from photographs and testimony that additional use was involved.

Although the landlord submitted the tenants lived in the home during February 2015 and it was not through his act or neglect that they suffered a flood, nevertheless it is evident that the value of the tenancy was significantly reduced by having about two thirds of the basement under water and having to deal with sopping water up many days. I find the value of the tenancy was reduced by 30% because of these conditions so I grant the tenant a rent rebate of 30% or \$382.50 for February.

In respect to the tenant's claim for labour for sopping up the flood, I find they acted promptly to protect the landlord's property and they are entitled to some compensation for their work. However, I find, at the most, that they had to do this in varying degrees for two weeks and after that intermittently. Considering they had children to care of and the mother left for a time to go to her parents, I find them entitled to compensation of 2 hours per day per adult for each of the two weeks (total 28 hours per week for each adult or 56 hours total for two weeks). After that, the photographs illustrate some seepage which likely could be handled in about 10 hours total (or 5 hours each). The tenants asked for \$10 per hour so I find them entitled to \$560 for the first two weeks and \$100 for time thereafter. Although the landlord said they had offered to do it, the fact is they did not and I find the tenants are entitled to some compensation for their work. I take into account the soaking towels shown mostly in the landlord's photographs that had to be dealt with as well.

I find the landlord applied in sufficient time to avoid the doubling provision of section 38 of the Act in respect to the security deposit; it will be taken into account to the credit of the tenant in the calculations.

**Conclusion:**

I find the parties entitled to monetary awards as calculated below. I find the landlord entitled to recover filing fees in the calculation but such fees were not involved for the tenant so are not awarded. The balance is in favour of a monetary order to the tenant for **\$790.24**.

Calculation of Monetary Award:

Landlord : touch ups and paint	210.00
Items for blinds allowance	107.95
Cleaning	88.00
Missing door stop(10), light shade (18) screen(36)	59.00
Replace bulbs (10) Screws (10)	20.00
Weather-strip allowance	63.75
Water charge	56.95
Carpet cleaning	72.45
U Haul and Storage	234.16
Filing fee	50.00
<b>Total Monetary Award to Landlord</b>	<b>962.26</b>

Tenant: Security Deposit credit	640.00
Rent rebate 30% Feb.	382.50
Excess hydro allowance	70.00
Labour allowance	660.00
<b>Total Monetary Award to Tenant</b>	<b>1752.50</b>
Deduct Award to Landlord	-962.26
<b>Total Monetary Order in favour of Tenant</b>	<b>790.24</b>

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: June 11, 2015

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Residential Tenancy Branch

