



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNDC; RP; RR; FF

### **Introduction**

This is the Tenant's application for compensation for damage or loss under the Act, regulation or tenancy agreement; the Tenant also requests an Order that the Landlord make repairs to the rental unit; a reduction in rent; and to recover of the cost of the filing fee from the Landlord.

The Tenant gave affirmed testimony at the Hearing.

The Tenant testified that the Notice of Hearing documents were served, by registered mail to the Landlord, by registered mail. The Tenant provided the registered mail tracking numbers. A search of the Canada Post tracking system provides that the documents were delivered on June 23, 2015. The Tenant stated that copies of his documentary and electronic evidence were also sent under cover of the same registered mail.

Based on the Tenant's affirmed testimony, I find that the Landlord was duly served with the Notice of Hearing documents and copies of the Tenant's documentary and electronic evidence. Despite being served with the documents, the Landlord did not sign into the Hearing, which continued in his absence. The teleconference remained open for 30 minutes.

### **Issues to be Decided**

- Should the Landlord be ordered to make repairs to the rental unit?
- Is the Tenant entitled to a rent reduction and if so, in what amount?
- Is the Tenant entitled to compensation for the cost of cleaning the rental unit at the beginning of the tenancy?

### **Background and Evidence**

The Tenant provided the following evidence:

A copy of the tenancy agreement and Form K were provided in evidence. This tenancy began on May 1, 2015. The tenancy agreement is a one year term lease, ending April 30, 2016. At the end of the fixed term, the tenancy may continue on a month-to-month basis or another fixed length of time.

Monthly rent is \$1,530.00, due on the first day of each month; however, the tenancy agreement provides that rent will be reduced by \$50.00 if the Tenant chooses not to have parking after the first month of the tenancy. The Tenant paid a security deposit in the amount of \$765.00 at the beginning of the tenancy. The tenancy agreement also provides that "pool, gym, coin laundry, TV room" are included in the rent. Utilities are not included in the rent.

The Tenant testified that the rental unit was not clean at the beginning of the tenancy and that the Landlord declined to do a move-in condition inspection, dropped off the keys, and left. The Tenant stated that he and a witness completed a condition inspection report, a copy of which was provided in evidence. The Tenant stated that he paid two people \$204.75 for 2.5 hours of cleaning, but that they could not do more than 2.5 hours on short notice. The Tenant provided a copy of the cleaners' invoice in evidence. The Tenant testified that he completed the cleaning and that it took him 3 hours to complete it. The Tenant seeks compensation in the amount of \$122.60 for his labour.

The Tenant stated that he paid "the caretaker" \$150.00 when he moved into the rental unit, but the caretaker will not give him a refund. The Tenant submitted that the Form K provides for a refundable deposit, but no mention of a fee. The Tenant stated that there is a notice posted in the common laundry area which also stated that the building does not charge a move-in fee.

In addition to the above issues, the Tenant testified that at the beginning of the tenancy, the heating system in the rental unit was not working properly, the kitchen window outside pane was broken, and the toilet "runs on" after flushing. The Tenant submitted that the wiring is "potentially dangerous". The Tenant stated that he gave the Landlord notice of these on May 29, 2015. The Tenant provided a copy of an email to the Landlord in evidence. The Tenant testified that none of these issues have been resolved and that it is getting very cold in the rental unit. The Tenant stated that he has another residence in another City, but that for work purposes he maintains two residences. The Tenant testified that he has been staying at his other residence for the past two weeks because it is uncomfortably cold in the rental unit.

The Tenant testified that he was attracted by the fact that the rental unit had a swimming pool, hot tub and sauna. He stated that he was looking forward to swimming in the morning before work, but that the pool is out of order and has been since the beginning of the tenancy. The Tenant stated that other occupants in the building told him that it has been out of order for some time. The Tenant submitted that a monthly pass at a local swimming pool is \$45.00 and that a monthly transit pass to get there is \$91.00.

The Tenant stated that the Landlord had told him that laundry would cost \$.50 a load, but that it actually costs \$1.50 a load. The Tenant testified that he does approximately 3 loads of laundry a week.

The Tenant testified that the cold water runs "hot" for 2 or 3 minutes before it runs cold and that it is difficult to regulate the temperature. The Tenant stated that this happens with the sinks, tub and toilet and is annoying and must impact his electricity bill. He testified that the rental unit was advertised with hardwood floors, but that after cleaning the floors he became aware that they are not hardwood. He stated that it appears that they are vinyl or some other synthetic substance and that they are coming up in sections, causing a tripping hazard.

The Tenant seeks a rent reduction, calculated as follows:

Loss of use of swimming pool, sauna and hot tub	\$100.00
Additional cost of doing laundry	\$26.00
Reduction for lack of control of the water temperature	\$50.00
Reduction for lower quality flooring	<u>\$25.00</u>
TOTAL rent reduction per month	\$201.00

### **Analysis**

#### **Should the Landlord be ordered to make repairs to the rental unit?**

Based on the Tenant's undisputed affirmed oral testimony, documentary evidence and electronic evidence, I find that the Landlord has failed to comply with Section 32 of the Act, and therefore pursuant to Sections 62(3) and 32 of the Act, I Order the Landlord to do the following **no later than January 18, 2016**:

- Replace the outside pane of the kitchen window.
- Hire a professional contractor to inspect the rental unit and to make necessary repairs to the plumbing and heating in the rental unit.

#### **Is the Tenant entitled to a rent reduction and if so, in what amount?**

Section 65(1)(f) of the Act allows me to reduce past or future rent by an amount that is equivalent to a reduction in the value of a tenancy agreement. With respect to the lack of a swimming pool and hardwood floors, the Tenant provided evidence that the rental unit and common areas are not as was advertised. In addition, I find that the value of the tenancy has been diminished as a result of the Landlord's failure to comply with Section 32 of the Act. I find that the Tenant has established rent abatement as claimed in the total amount of \$201.00 from May 1, 2015 to December 1, 2015 (for a total of **\$1,608.00**).

I find that the tenant is also entitled to a future rent reduction of \$100.00 per month effective January 1, 2016, until repairs to the swimming pool are completed **and the Landlord is successful in an application to have the rent reduction stopped**. To be clear, the onus is on the Landlord to be successful in an Application for Dispute Resolution that the rent reduction should cease.

Is the Tenant entitled to compensation for the cost of cleaning the rental unit at the beginning of the tenancy?

A rental unit must be in reasonably clean condition at the beginning of a tenancy. Based on the evidence provided by the Tenant, I find that the rental unit was not reasonably clean and that the Tenant is entitled to compensation as claimed in the amount of **\$327.60**.

The Tenant has been successful in his Application, and I find that he is entitled to recover the cost of the **\$50.00** filing fee from the Landlord.

### **Conclusion**

I Order the Landlord to do the following **before January 18, 2016**:

- Replace the outside pane of the kitchen window.
- Hire a professional contractor to inspect the rental unit and to make necessary repairs to the plumbing and heating in the rental unit.

I find that the Tenant is entitled to rent abatement and recovery of his filing fee in the total amount of **\$1,985.60**, which he may **either** deduct from future rent due to the Landlord **or** the Tenant may choose to enforce the enclosed Monetary Order. If the Tenant chooses to enforce the enclosed Monetary Order, it may be filed in Small Claims court after service of the Order upon the Landlord, and enforced as an Order of that Court.

I find that the tenant is also entitled to a future rent reduction of **\$100.00** per month effective January 1, 2016, until repairs to the swimming pool are completed **and the Landlord is successful in an application to have the rent reduction stopped.**

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 15, 2015

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Residential Tenancy Branch

