



# 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 hearing was scheduled to deal with a tenant's application for repair orders; and, a request to reduce rent payable for repairs, services or facilities not provided. The tenant subsequently sought to amend her application to include a monetary claim for damage or loss under the Act, regulations or tenancy agreement. Both parties appeared or were represented at the hearing and were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

### Preliminary and Procedural Matters

The tenant served her Amendment upon the landlord after the deadline provided under the Rules of Procedure. The landlord indicated that she wished to deal with the matters identified by the tenant during the hearing and confirmed that she had sufficient time to prepare a response to the application, as amended. Therefore, I permitted the application to be amended.

### Issue(s) to be Decided

1. Is it necessary to issue orders for repairs or compliance to the landlord?
2. Has the tenant established a basis under the Act to reduce future rent payable?
3. Has the tenant established a basis to be compensated by the landlord for the amounts claimed?

### Background and Evidence

The tenancy commenced in August 2008 and the tenant is currently required to pay rent of \$900.00 on the first day of every month.

In filing her application, the tenant identified the following issues that required repair or compliance by the landlord:

- Broken stove top (from Jan 2015)
- Hole in bathroom wall (since July 2015)
- Kitchen faucet leak (since August 2015)
- Kitchen bulb replacement (Sept 2015)
- Keeping mail (October 2015)

[reproduced as written]

With respect to the stove top, bathroom wall, kitchen faucet, and the kitchen bulb both parties provided consistent testimony that these issues were rectified during the time the tenant was out of the rental unit while a bathroom renovation was underway between the dates of November 24, 2015 and December 5, 2015.

With respect to the keeping of mail the tenant explained that in October 2015 she received 11 pieces of mail at one time from the landlord and that it is important for her to receive her mail in a timely manner. The tenant stated that she did request the landlord give her the mail when the landlord receives it and since then it appears as though the issue has improved. The landlord explained that there had been times when there was a delay of one or two days in getting the tenant's mail to her but the landlord was agreeable to providing the tenant with her mail on the same day she receives it.

As the issues identified on the tenant's application have since been resolved, I found the tenant's request for a reduction of future rent payable for repairs not made to be moot. Accordingly, I proceeded to consider the tenant's monetary claims, including the request for a retroactive rent abatement while awaiting repairs to be made, as identified by way of her Amendment. Below, I have summarized the tenant's monetary claims and the landlord's responses where appropriate.

The tenant requested compensation for having to wait five months for repairs to be completed. The tenant did not indicate an amount she was seeking and indicated she would leave it to the Arbitrator to decide. I did not proceed to consider this claim further as an applicant has the burden to provide sufficient particulars, including the amount claimed for compensation and how the amount was determined. Further, the respondent is entitled to receive the particulars so as to understand the nature of the claim and the remedy sought so as to prepare a response or defence to the claim in keeping with the principles of natural justice. Since the tenant did not claim a specific

amount I found she did not provide sufficient particulars and I dismissed this claim with leave to reapply. The tenant was encouraged to attempt to resolve this issue with the landlord before filing another application.

The tenant requested compensation of \$348.00 to reflect that the rental unit was not functional or liveable between the dates of November 24, 2015 through December 2015. The amount was calculated by pro-rating the monthly rent. The tenant submitted that she stayed with her sister during these days. Both parties pointed out that the landlord had indicated to the tenant, in writing, that rent would be pro-rated; however, a specific amount or method of recovery was not specified. The landlord confirmed that she was agreeable to compensating the tenant the amount claimed. The landlord was in agreement that the tenant may withhold \$348.00 from rent payable for January 2016 and the tenant confirmed that it is her intention to continue to reside in the rental unit for the time being.

The tenant requested compensation of \$131.10 for the cost of stay at a hotel on November 23, 2015. The tenant explained that since a motor vehicle accident in July 2015 she suffers anxiety and panic attacks and, as a result, she does not get out of bed before 9:00 a.m. The bathroom renovation crew was slated to begin work on November 24, 2015 at 9:00 a.m. so she went to a hotel the night before so as not to be awoken early. The tenant stated that if she was reimbursed this amount as part of her motor vehicle insurance claim she would refund it to the landlord. I did not seek a response from the landlord with respect to this claim for the reasons given in the analysis portion of this decision.

The tenant requested compensation for mileage to travel between her medical appointments and her sister's home where she was staying between the dates of November 24, 2015 and December 5, 2015. The tenant explained that the medical appointments were with doctors she had to see due to injuries she suffered in the motor vehicle accident. The tenant stated that any reimbursement she receives as part of her motor vehicle accident insurance claim will be refunded to the landlord. I did not seek a response to this claim from the landlord for reasons given in the analysis section of this decision.

The tenant requested compensation for the cost of photocopying documents, sending registered mail, and parking while at the Residential Tenancy Branch. The tenant confirmed that these costs relate to the filing and serving the dispute resolution documents upon the landlord. I did not seek a response to this claim from the landlord for reasons given in the analysis section of this decision.

The tenant requested recovery of the filing fee paid for this application. The tenant submitted that the landlord took too long to make repairs she had requested and that the tenant would not have filed if the landlord took action in a timely manner. The tenant claimed the hole in the wall was disturbing as there was an odor emanating from it. The landlord was of the position that the tenant's requests for repairs were minor in nature and that the rental unit remained functional while awaiting repairs. For instance, the broken stove top was a one inch piece of the glass top that was glued back on twice but remained functional; and, the kitchen faucet had only a small drip. The landlord also pointed out that the landlord is not responsible for replacing light bulbs which the tenant included in her request for repairs although the landlord replaced it anyways. The landlord denied that there was an odour or mould coming from the wall cavity that was exposed in the bathroom. Also, the renovation contractor indicated the bathroom repairs were not urgent so the landlord took time to coordinate the renovation trades so that it could be accomplished in the most efficient way with the least amount of time the bathroom was unusable. The tenant pointed out that only after she filed did the landlord accomplish the repairs that she had been waiting to see repairs for a number of months.

### Analysis

The repairs sought by the tenant by way of this application have since been resolved and I find it unnecessary to issue repair orders to the landlord. I am also satisfied by the landlord's verbal assurance that the landlord will ensure the tenant is provided her mail in a timely manner and I find it unnecessary to issue an order for compliance to the landlord.

Since there are no outstanding repair or compliance issues I find it unnecessary and inappropriate to authorize a reduction of future rent payable for such matters

With respect to the tenant's monetary claims against the landlord, I provide the following findings and reasons.

Based on the landlord's agreement, I award the tenant compensation of \$348.00 for the days of November 24, 2015 through December 5, 2015 when the rental unit was non-functional and/or non-liveable. To recover this award, the tenant is authorized to deduct \$348.00 from rent payable for January 2016.

With respect to the tenant's claims for recovery of the hotel stay and mileage to travel to her medical appointments, based on the submissions of the tenant, I find these costs relate primarily to medical issues she experienced after a motor vehicle accident for which intends to be compensated as part of a claim against the motor vehicle insurance

company. I was unsatisfied that these costs were incurred solely as a result of the actions of the landlord or that the landlord is responsible for the tenant's medical condition. Therefore, I have dismissed this portion of the tenant's claim against the landlord.

With respect to costs incurred to file, serve, prepare and participate in a dispute resolution proceeding, the Act does not provide for recovery of these costs. The only exception to this is the cost of the filing fee paid for the Application. The Act provides that the Director, and as delegated to an Arbitrator, has the discretion to award recovery of the filing fee to a party to the dispute. Accordingly, I dismiss the tenant's request to recover photocopying, registered mail and parking costs from the landlord but I proceed to consider the tenants request to recover the filing fee from the landlord. Both parties provided arguments with respect to this matter that I have considered below.

Upon consideration of the tenant's application, as a whole, I find it appropriate to award the tenant recovery of one-half of the filing fee, or \$25.00. I note that the tenant did give the landlord written requests for repairs numerous times and that only after filing did the issues get resolved. However, I also note that the tenant's expectations of the landlord are, at times, greater than what is required under the Act. For instance, light bulbs that burn out during a tenancy are usually the tenant's responsibility to replace. Further, a landlord's obligation to repair and maintain a property are provided under section 32 of the Act and minor inconveniences or cosmetic issues are not necessarily sufficient to warrant a repair by the landlord. Finally, the tenant was only partially successful in her monetary claims against the landlord. Therefore, I award the tenant to recovery of \$25.00 of the filing fee she paid and the tenant is authorized to deduct \$25.00 from rent otherwise payable for a subsequent month to recover this award.

### Conclusion

The tenant has been authorized to deduct \$348.00 from rent payable for January 2016 as compensation for loss of use of the rental unit for the period of November 24, 2015 through December 5, 2015.

The tenant's claim for compensation for the time it took to make repairs was dismissed with leave to reapply; however, the remainder of the tenant's monetary claims were dismissed without leave.

Repairs have since been completed and issues with receiving mail have since improved. Accordingly, I have not issued any orders for repairs or compliance to the landlord in this decision.

The tenant has been awarded recovery of one-half of the filing fee and has been authorized to deduct \$25.00 from rent otherwise payable in satisfaction of this award.

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 22, 2015

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Residential Tenancy Branch

