



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to a monetary order for compensation for damage or loss and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agreed the tenancy began in March 2012 as a month to month tenancy for a monthly rent of \$814.00 (at the end of the tenancy) due on the 1<sup>st</sup> of each month with a security deposit of \$400.00 paid. The tenancy ended on January 1, 2016.

The tenant submitted that she had been working 19 days in a row without break and extensive hours for each of those dates. She stated she arrived home late and felt her socks got wet but she was too "tired to care" and went to bed. She submitted a copy of her text to the landlord at 7:58 a.m. on May 7, 2016 which states: "Good morning I'm sorry to bother you so early but my water tank is leaking and it has really messed up the flooring. I'm not sure how long it has been going on but I did notice my floor was wet last night when I was just going to bed. Please come look at your earliest convenience, it's all the way into my bedroom" [reproduced as written].

The tenant submitted that as a result of the flood she had to endure 54 days that her rental unit was not suitable accommodation and despite having an agreement with the landlord that she would receive compensation this period the landlord has only provided her with compensation for 14 days.

The tenant testified that she had originally requested from the landlord the equivalent of ½ month's rent but that they later agreed that the tenant would pay rent as usual and the landlord would seek compensation from her insurance company. The tenant stated that the landlord agreed that anything they covered she would pass on to the tenant. The landlord did not dispute that these were the terms of their agreement.

The landlord submitted that her insurance company initially indicated that they would not provide the tenant with any compensation but in the end they agreed to cover 14 days of lost rent to the landlord based on the periods of drying and construction in the unit. The landlord confirmed the rate of reimbursement was \$26.00 per day.

The tenant testified that despite repeated requests the landlord has not provided her with any confirmation from the insurance company as to how much the landlord received for lost rent. The tenant believes that the landlord has received more compensation from insurance than the 14 days and seeks to have it given to her.

The landlord submitted that she has never received anything from her insurance company confirming anything in writing but that they informed her that they would only cover 2 weeks because the tenant was living in the unit.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

While both parties provided substantial testimony regarding the flood; the reporting of it; the work that was required to restore the unit and the time frames involved, I find the only relevant matter before me is whether or not the landlord has complied with the agreement the parties had as to the compensation that the tenant would receive. The tenant's Application for Dispute Resolution clearly outlines that the compensation she seeks is based on the agreement the parties had related to these matters. I find the landlord has not sought any additional compensation in this Application.

In the case of verbal agreements, I find that where terms are clear and both the landlord and tenant agree on the interpretation, there is no reason why such terms cannot be enforced. However when the parties disagree with what was agreed-upon, the verbal terms, by their nature, are virtually impossible for a third party to interpret when trying to resolve disputes.

As the landlord did not dispute the terms of the agreement the parties had in regard to compensation for the tenant, I find the parties are of the same mind in regard to those terms. Based on the tenant's testimony I find that the parties had agreed that the landlord would provide the tenant with all of the compensation she received from her insurance for lost rent.

When two parties provide opposing but equally plausible testimony the party making the claim has the burden to provide additional evidence to corroborate their version of events. In the case before me, that burden rests with the tenant.

Based on the terms of the agreement, the landlord was required to provide the tenant with the same amount that she received from her insurer for lost rent. The tenant asserts that the landlord has received more money for this than what she has paid the tenant and/or that she should be compensated for 40 more days because that is how long she was inconvenienced, if the insurer paid the landlord less than 54 days. The landlord disputes that she received anything more than 14 days at \$26.00 per day that she has paid the tenant.

As such, the tenant must provide additional evidence to corroborate that the landlord has received more money from her insurer than what she has paid the tenant or that their agreement required the landlord to pay her additional compensation if the insurer provided the landlord with compensation in an amount less than a total of 54 days. I find the tenant has provided no such evidence.

As a result, I find the tenant has failed to provide any evidence that the landlord has failed to pay her compensation in an amount than what was agreed upon by both parties.

### Conclusion

Based on the above, I dismiss the tenant's Application for Dispute Resolution in its entirety.

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 10, 2016

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Residential Tenancy Branch