



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Westsea Construction  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes

MNDC

### Introduction

This hearing convened pursuant to the tenant's application for monetary compensation for damage or loss under the Act, regulation or tenancy agreement. The tenant, an advocate for the tenant, a witness for the tenant, two agents for the landlord and counsel for the landlord participated in the teleconference hearing.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence. Both parties were given full opportunity to give affirmed testimony and present their evidence. I have reviewed all testimony and other evidence. However, in this decision I only describe the evidence relevant to the issues and findings in this matter.

### Issue(s) to be Decided

Is the tenant entitled to monetary compensation as claimed?

### Background and Evidence

The tenancy began on July 1, 1995. The rental unit was an apartment in a large multi-unit building. On May 15, 2014 a fire broke out in the building. As a result of the fire, several units, including the tenant's unit, were determined to be in the "uninhabitable zone." On May 29, 2014 the landlord and the tenant signed a mutual agreement to end tenancy, in which the parties agreed that the tenancy ended on May 15, 2014. The tenant also signed a form giving the landlord permission "to discard all remaining contents in [the tenant's] suite." The tenant moved most of his belongings out of the rental unit on June 7, 2014.

#### *Tenant's Claim*

The tenant stated that he has Aspergers and he therefore has difficulty communicating with others. He is unable to understand non-verbal cues, he is susceptible to stress and anxiety and his speech is affected by stress. The tenant stated that as a result of the fire on May 15, 2014 and all that followed, he was "in a very dark place" and a "deeply frightening state." The tenant stated that from that date to this day he exhibits self-harm behaviour, biting his arm. The tenant

submitted that the landlord was deliberately negligent and made misleading and inaccurate statements, which directly caused him loss and harm.

The tenant stated that before the fire occurred, he had planned a trip to Toronto from June 10 to 24, 2014, and he had already bought the ticket. The Tenant stated that he contacted the landlord to ask if they could hold on to his belongings until he returned. The tenant stated that the landlord's agent told him "no," and further stated that if the tenant did not retrieve all of his belongings prior to the trip, they would not be there when he returned. The tenant stated that he was told that he could have time in advance to pack his possessions, but on his moving day he would only have 90 minutes to access his suite and move all of his possessions out of the building.

The tenant stated that because of his Asbergers, he collects things, and his sense of identity is tied with his possessions. The tenant stated that he did not yet have a new place to stay, and he felt pressured to pay for a storage locker in which to store his items, at a personal cost of \$255.00 for the month of June 2014.

The tenant stated that he had to hire professional movers, at a cost of \$648.00, because he did not have enough time to coordinate borrowing a truck or finding friends to help him move.

The tenant stated that on June 7, 2014, he moved his belongings out of his suite. A witness for the tenant stated that she helped the tenant move, and the move was very rushed. The tenant stated that because time was limited he had to leave behind some of his larger items, including an entertainment centre and a large display case. The tenant estimated the value of all items left behind to be \$875.00. The tenant stated that he did not approach the landlord again to claim the remainder of his possessions because he was suffering emotional distress and he was afraid to ask for more time.

The tenant stated that he did not understand why the landlord pressured him to remove his belongings so quickly, as some of his items were still in his suite in November 2014. The tenant stated that in March 2015 he received a letter from the landlord, which described the measures the landlord took to try to salvage the tenant's remaining belongings, but then determined that they were unsalvageable. The tenant stated that he was confused why his remaining belongings were not salvageable, given that his unit had been deemed "clean" in an environmental assessment.

The tenant submitted that the landlord did not act in good faith. The tenant has claimed \$1,778.38 for his moving and storage costs and the replacement cost of his remaining belongings. The tenant has also claimed \$4,500.00 in aggravated damages.

#### *Landlord's Response*

The landlord stated that they did not breach the Act, regulation or tenancy agreement, and therefore the tenant is not entitled to any of his claim. The landlord submitted that the good faith requirement only applies to when a landlord issues a notice to end tenancy for landlord's use. The landlord stated that the tenant did not have insurance, which would have covered his costs resulting from the fire. The landlord stated that all of the tenants were given 90 minutes to use the service elevator; however, the tenant could have asked for extra time but did not. The landlord stated that the tenant did not leave a forwarding address, so they could not contact him.

### Analysis

Upon consideration of the evidence and on a balance of probabilities, I find that the tenant is not entitled to compensation.

There is no evidence that the landlord breached the Act, regulation or tenancy agreement. There is no good faith requirement unless a landlord has issued a notice to end tenancy for landlord's use. The tenant's costs would have been covered if he had purchased tenant insurance. There is insufficient evidence that the landlord acted in a neglectful way when dealing with the tenant and his belongings. It is unfortunate that the tenant felt he could not contact the landlord to retrieve the remainder of his belongings; however, the tenant knew as late as November 2014 that the landlord still had at least some of his belongings, and it was the tenant's responsibility to initiate further contact with the landlord, either directly or indirectly through an advocate or agent.

### Conclusion

The tenant's application is dismissed.

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 24, 2016

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Residential Tenancy Branch