



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding NIEGHBORHOOD HOUSING SOCIETY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, ERP

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33.

Both parties attended the hearing via conference call and provided affirmed testimony. Both parties confirmed receipt of the tenant's notice of hearing package and the submitted documentary evidence.

The landlord stated that since the tenant was evicted on August 15, 2016 and that the tenant has not provided a new mailing address to the landlord since. The tenant stated that he was homeless and had no fixed address as he was staying in a shelter. I accept the landlord's documentary evidence and find that this material is not prejudicial and fails to be relevant to the tenant's monetary claim. No weight was given to the landlord's submissions of 3 different Residential Tenancy Branch Decisions. The landlord was allowed to read part of the written response statement during the hearing.

As both parties have attended and have confirmed receipt of the notice of hearing package and the submitted documentary evidence, I am satisfied that both parties were properly served and are deemed served as per section 90 of the Act.

At the end of the hearing the tenant advised that he wished to have the decision sent via his Advocate's office. The file will be updated to forward the decision as per the tenant's request.

### Preliminary Issue

The tenant has applied for an order for the landlord to make emergency repairs to the rental unit. Both parties agreed that as the tenancy ended on August 15, 2016 that this portion of the application was cancelled.

The tenant's monetary claim is limited to the amount of \$8,000.00 as opposed to the amount listed on the monetary worksheet of \$8,414.99 as no amended was filed or served to the landlord.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation for damage or loss?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant stated that a water leak occurred in his washroom on February 28, 2016. The tenant claims that as a result of a water leak the tenant's 6 electronic items listed in the monetary worksheet were damaged beyond repair and that the tenant suffered an illness that caused him to miss work for a 5 month period.

The landlord disputes the tenant's claims stating that although there was a water leak in the tenant's washroom it caused "minor flooding in the front entrance and washroom area of the suite". The landlord stated that the water leak was repaired on February 29, 2016. The landlord stated the tenant had only advised the landlord that "some personal items that were near this area were damaged", but that no evidence or details of the damaged items were ever given to the landlord. The landlord also questioned that the tenant had no proof that he possessed such items or that he suffered an illness due to the water leak.

The tenant seeks a monetary claim of \$8,000.00 which consists of:

\$999.00	Audio Technic Recording Mic
\$999.00	Kontrol S61 Keyboard
\$399.00	Audio box 44VSL
\$359.00	RP8G3 Monitor Each

\$2,299.99	IMAC 27" Intel Core 15 Desktop
\$359.00	RP8G3 Monitor Each
\$3,000.00	Not Working 5 Months

In support of the claim, the tenant has submitted:

Copies of photographs of pricetags for:

IMAC 27" and 27" IMAC Intel Core I5 Desktop  
RP8G3 Monitor (X2)  
AudioBox 44VSL  
Kontrol S61 Keyboard  
AT4047 Condenser Mic

Copy of photograph of tenant's BCCSA Identification Card  
Copy of Prescription dated August 11, 2016 in the tenant's name  
Copy of a letter from the landlord dated March 7, 2016  
Copy of a letter from landlord dated March 7, 2016 updated on July 6, 2016

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

In this case, the burden lies with the tenant. The tenant's claims are being disputed by the landlord. The tenant was unable to provide any evidence of damage to the listed electronic items. The landlord also questioned that the tenant was unable to prove that he possessed such items. The tenant was unable to provide any proof of an actual amount for the electronic items and relied upon photographs taken of price tags at a local electronic store. On this basis, I find on a balance of probabilities that the tenant has failed to establish that the water leak was caused through the actions or neglect of the landlord. The tenant has also failed to provide sufficient evidence to satisfy me that there was damaged personal property although the letter submitted by the tenant refers

to “some personal items that were near this area were damaged”. No mention of electronics. The tenant's claim for the 6 electronic items are dismissed.

As for the tenant's claim for \$3,000.00 in lost wages over a 5 month period, I find that the tenant has failed to provide sufficient evidence. The landlord has disputed this portion of the tenant's claim and the tenant was unable to provide sufficient evidence that he suffered an illness due to the water leak causing him to not work over a 5 month period. The tenant relied upon a copy of a prescription label, but was not able to provide a diagnosis from a doctor as to a cause for his illness. I also find that the tenant failed to provide sufficient evidence that 5 months of wages were lost totalling, \$3,000.00. The tenant relied upon a copy of a work identification card. This portion of the tenant's claim is dismissed.

### Conclusion

The tenant's monetary claim is dismissed without leave to reapply.

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: September 01, 2016

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Residential Tenancy Branch