



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MT, CNR, FF, O

### Introduction

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

- more time to make an application to cancel the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) pursuant to section 66;
- cancellation of the 10 Day Notice pursuant to section 46;
- other relief including a monetary order for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The tenant, KS primarily spoke for both tenants (the "tenant").

As both parties were in attendance, I confirmed that there were no issues with service of the tenants' application for dispute resolution or evidentiary materials. The landlord confirmed receipt of the tenants' application. I find that the tenants' application was served on the landlord in accordance with section 89 of the *Act*.

The landlord testified that she has not has the opportunity to pick up the tenants' evidentiary materials from the post office but has received notice that it is available. The landlord did not object to its inclusion at the hearing. The tenant testified that the evidence was sent by registered mail and provided a Canada Post tracking number. I find that the tenants' evidentiary materials were served in accordance with section 88 of the *Act*.

At the outset of the hearing, the parties testified that the landlord's 10 Day Notice was conclusively adjudicated at an earlier hearing under the file number on the first page.

The tenancy has ended and the tenants no longer reside in the rental unit. The tenants testified that they are solely pursuing the portion of their application seeking monetary relief at this hearing.

#### Issue(s) to be Decided

Are the tenants entitled to a monetary award for repairs, services or facilities agreed upon but not provided?

Are the tenants entitled to recover the filing fee for this application from the landlord?

#### Background and Evidence

The parties agreed on the following facts. This tenancy began on July 1, 2015 and ended on January 31, 2017. The rental unit is a detached home with three full bedrooms and one additional room converted into a bedroom. At the end of the tenancy the monthly rent was \$1,500.00. A security deposit of \$750.00 and a pet damage deposit of \$100.00 were paid by the tenants at the start of the tenancy and are still held by the landlord. The parties testified that there was a written tenancy agreement but none was submitted into evidence.

The tenant testified that use of a washer and dryer was a condition of the tenancy agreement. The tenant said that the washer that was in the property when they moved in broke down within the initial month of the tenancy on July 23, 2015. The tenant said that she subsequently installed a washer that she had on hand. When her washer became unusable the tenant said that she rented a washer commercially in May, 2016 and used that machine until the end of the tenancy in January, 2017. The tenant testified that the rental washer cost \$109.00 monthly. During the periods when the washer was broken or unavailable the tenant said she also used a laundromat to do laundry. The tenant testified that the landlord was aware that the initial washer was broken and the tenants should be compensated for their out of pocket expenses.

The tenant testified that the electrical service in the rental property was prone to issues. The tenant said that since the tenancy commenced there were multiple instances where the circuit breaker would trip and that electronic appliances would flicker and flash. The parties testified that the electrical issue was reported to the landlord in March, 2016 and the landlord hired an electrician to review the cause of the issues. The landlord testified that the electrician found burnt out circuit breakers and replaced the breaker in the electrical panel. The tenant testified that despite the electrician's work the rental property continued to have electrical issues with the lights and appliances being dim

and flickering. The tenant testified that the issue was such that the tenants' daughter moved out from her bedroom in the rental property.

The landlord testified that she was not informed by the tenants that the washer and electrical system were ongoing issues. The landlord said that she believed the tenants installed their own washer as it was a superior quality machine than the one provided. The landlord testified that she was unaware that the tenants needed to rent a machine and the tenants have never provided her with any information about their out of pocket costs. The landlord said that the electrician replaced the circuit breaker and she understood that the any issues with the electrical system were resolved.

### Analysis

In their application for dispute resolution the tenants indicate they are seeking other relief and provide in their details of dispute that:

- Washer and dryer were not provided according to the tenancy agreement
- Electrical repairs were not made

While they have not indicated that they are seeking a monetary order in their written application the tenants orally requested some compensation for their losses.

Section 67 of the *Act* allows me to issue a monetary award for damage or loss. 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. This provision is also read in conjunction with paragraph 65 (1)(f) of the *Act*, which allows me to reduce the past rent by an amount equivalent to the reduction in value of a tenancy agreement.

I find, on a balance of probabilities, that the tenants have not established that they suffered damage or loss as a result of the landlord's violation of the tenancy agreement. The parties agreed that there was a written tenancy agreement but one was not submitted into evidence. I have no written evidence that the use of a washer and dryer is a term of the tenancy agreement. The tenant testified that they informed the landlord that they needed to rent a clothes washer from May, 2016 onwards. The landlord disputes that they were ever informed that there was an issue with the washing machine the tenants installed. The tenants have provided no written evidence that they informed

the landlord that a washing machine was needed. The only written evidence submitted by the tenants on this issue is an email correspondence from July, 2015 where the tenants inform the landlord that they have removed the initial washer and dryer as they were not needed. The tenants had the opportunity to provide written evidence that they informed the landlord of the need for a clothes washer but failed to do so. The tenants had the opportunity to provide written evidence such as receipts, contracts or invoices showing they rented a clothes washer and paid a monthly lease but failed to do so.

The only written evidence submitted by the tenants regarding the electrical issue is an email correspondence from March, 2016 between the tenants and the landlord where the tenants report the issue to the landlord. If the electrical flow was an ongoing issue it would be reasonable to expect that it would have been reported earlier, more frequently or after the electrician was contacted. The tenants submitted only one email exchange from a tenancy that lasted over 18 months.

I find that the tenants have failed to show on a balance of probabilities that they suffered any damage or loss, that any damage or loss was caused by the landlord's breach of the tenancy agreement, or that they suffered a monetary loss. Consequently, I dismiss the tenants' application.

### Conclusion

The tenants' 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: February 20, 2017

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Residential Tenancy Branch