



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding JABS GROUP OF COMPANIES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      DRI, MNR, O

### Introduction

This hearing was convened by way of conference call in response to the Tenant's Application for Dispute Resolution (the "Application") to dispute an additional rent increase, for a Monetary Order for the cost of emergency repairs, and for "other" issues.

Two agents for the company Landlord and the Tenant appeared for the hearing. However, only one of the Landlord's agent, the Tenant, and a witness for each party provided affirmed testimony.

The Landlord's agent confirmed receipt of the Tenant's Application and the Tenant's documentary evidence. The Landlord's agent confirmed that the Landlord had not provided any evidence prior to this hearing as they were relying on oral and witness evidence as well as the documentary evidence provided by the Tenant.

The hearing process was explained to the parties and they had no questions about the proceedings. Both parties were given a full opportunity to present their evidence, make submissions to me, and cross examine the other party and witnesses on the evidence provided.

### Issue(s) to be Decided

- Has the Landlord imposed an illegal rent increase?
- Is the Tenant entitled to a Monetary Order for costs for emergency repairs?

### Background and Evidence

The parties agreed that this oral tenancy started approximately three years ago for the rental unit on a month to month basis. Rent is payable in this tenancy in the amount of \$775.00 on the first day of each month.

The Tenant testified that on or around December 2016, he put a single sheet of shredded paper, consisting of the Tenant's banking information, down the toilet to dispose of that confidential information. The Tenant stated that this caused the toilet to block and he attempted to clear the blockage with a plunger.

The Tenant testified that because he was unable to clear the blockage he called the Landlord who provided a plumber to the rental unit. The Tenant explained that the plumber was also unable to clear the blockage by snaking the toilet and as a result, replaced the toilet with a used one the following day. The Tenant testified that he asked the plumber whether he would be charged for this and the plumber explained that this would be a cost borne by the Landlord.

However, the Tenant was later presented with an invoice by the Landlord for the replacement and labour cost of the repair in the amount of \$442.57 for him to pay. The Tenant submitted that he should not be responsible for this cost because it is excessive and involved replacement with a used toilet. The Tenant explained that the Landlord was imposing this cost on the Tenant through a \$50.00 rent increase for each month until the debt is paid off. So far the Tenant has paid \$150.00 of this debt. The Tenant now claims that he should not be responsible for any of this cost.

The Tenant provided a witness for the hearing who was only able to testify on advising the Tenant to pursue this matter through dispute resolution.

The Landlord testified that the Tenant had attempted to flush more than one piece of paper down the toilet and this was the reason why there was a large blockage that could not be unplugged either by the Tenant or the plumber.

The Landlord submitted that they should not be held responsible for damage caused by the Tenant's actions and that the toilet that was replaced was not a used one. In support of this, the Landlord called the plumber to provide testimony to this effect.

The plumber confirmed that he had attempted to clear the blockage but there was so much paper that had been put down it, that efforts to remove it would have likely resulted in hours of labour and damage to the toilet, therefore the plumber decided that it would be more cost effective to replace the toilet with a new one. The plumber testified to the cost breakdown that was provided by the Tenant into evidence. The plumber testified that the total cost was not excessive as it consisted of the costs for the replacement of a new toilet and the labour costs for the call out, repair and replacement over the two day period.

The Tenant was allowed to cross examine the plumber but instead of asking the plumber any questions, the Tenant submitted that the plumber was lying and that the plumber had informed him that the toilet was an old one. The plumber denied this assertion.

The Tenant testified that the toilet installed by the plumber was still faulty and continued to block. The Tenant explained that he had called the Landlord about this issue but the Landlord had been denied entry into the rental unit as there were no issues with it. The Tenant stated that he had video evidence of the replacement toilet blocking but confirmed that he had not served and provided this into evidence for this hearing.

The Landlord's agent acknowledged the Tenant's verbal complaint that the replacement toilet was alleged to still be blocking but the Tenant denied entry to the rental unit for the building manager to investigate this. The Landlord's agent stated that when the Tenant was asked why the building manager was denied entry, the Tenant explained that there were no issues with the replacement toilet.

The Landlord's agent testified that the Tenant was asked to pay the invoice cost of \$442.57 and when the Tenant stated he could not make the payment in one go the Landlord gave him the courtesy to pay the debt in \$50.00 installments until the debt is fully satisfied. The Landlord's agent submitted that the costs incurred by them from the plumber were not excessive and were reflective of the actual work done by the plumber.

The Landlord's agent stated that this was not a rent increase. Rather, the Tenant was allowed to pay this amount along with his monthly rent for convenience. The Landlord's agent confirmed that the Landlord was aware that a failure of the Tenant to pay the repair bill would not result in a notice to end tenancy for unpaid rent and that the remedy available to the Landlord in such a case would be to apply for a Monetary Order to recover this amount separately and independently of rent.

### Analysis

I have carefully considered the evidence of both parties before me on the balance of probabilities and I make the following findings. Section 32(3) of the Act stipulates that a tenant must repair damage to the rental unit that is caused by the actions or neglect of the tenant.

In this case, I find the Tenant's actions that led to the blocking of the toilet were negligent. I find that a reasonable person would not consider that a toilet in a rental unit is the means and method to dispose of confidential information and that such an action

would have likely resulted in damage. There are other more suitable ways to dispose of confidential information.

I find that the Tenant provided insufficient evidence to show that it was one piece of paper he had put down the toilet which was rebutted by the plumber's direct testimony which I find is independent and more credible.

The Tenant provided insufficient evidence to show that the replacement toilet is malfunctioning which would have suggested that there is a more serious issue not related to the toilet. However, the Tenant provided no corroborating or supporting evidence to back up his oral testimony that the replacement toilet is still blocking as the Tenant has blocked access to the building manager to investigate this and conceded in this hearing that there is no issue with the replacement toilet. The Tenant also claimed he had video evidence of this but failed to provide this for this hearing. Such evidence would have been vital to support the Tenant's claim and would have been reasonably expected to be provided for this hearing, which it was not.

With respect to the Tenant's assertion that the plumber installed a used toilet, the Tenant again provided no corroboration of this. I accept the plumber's direct testimony and invoice evidence that the toilet replaced was brand new as I find on the balance of probabilities it was unlikely that a professional plumber would install a used toilet.

With respect to the Tenant's claim that the costs sought from the Tenant by the Landlord were exorbitant, I do not find this is the case. I accept the breakdown costs incurred by the plumber to rectify the damage caused by the Tenant's actions as reasonable and reflective of the labour costs and purchase of materials.

Based on the foregoing, I find the Landlord is not responsible for the repair and replacement costs incurred because the Tenant caused the toilet blockage and is responsible for this cost pursuant to Section 32(3) of the Act.

I find the Landlord is not seeking the re-imbursement costs for the toilet damage as a rent increase. Rather, I find the Landlord is allowing as a courtesy to the Tenant to pay the debt owed through a payment plan of \$50.00 per month until the debt is fully satisfied.

In any case, I order that the Tenant to pay the outstanding amount of the repair bill and that this is to have no impact or effect on the Tenant's requirement to pay rent under this tenancy agreement unless it is changed pursuant to the Act. If the Tenant fails to

pay the debt, the Landlord may file an application for a Monetary Order to recover the amount outstanding.

### Conclusion

The Landlord has not imposed an illegal rent increase. The Tenant's request for a Monetary Order is declined and the Tenant must pay the Landlord the outstanding costs of repairs caused by the Tenant's actions. The Tenant's Application is dismissed without leave to re-apply.

This Decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: March 15, 2017

---

Residential Tenancy Branch