



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNSD, MNDC, ERP, RP, PSF, LRE, AAT, LAT, RR

### Introduction

This hearing was convened by way of conference call in response to a Tenant's Application for Dispute Resolution (the "Application") filed on February 1, 2017 for the following reasons:

- for the cost of emergency repairs;
- for the return of the Tenant's security deposit;
- for money owed or compensation for damage or loss under the *Residential Tenancy Act* (the "Act"), regulation or tenancy agreement;
- for the Landlord to undertake repairs and emergency repairs to the rental unit;
- for the Landlord to provide services or facilities required by law;
- to suspend or set conditions on the Landlord's right to enter the rental unit;
- to allow access to the rental unit for the Tenant and the Tenant's guests;
- to authorize the Tenant to change the locks to the rental unit; and
- to allow the Tenant to reduce rent for services, repairs or facilities agreed upon but not provided.

### Preliminary Issues

An agent for the Landlord and the Tenant appeared for the hearing and provided affirmed testimony. The Landlord's agent confirmed receipt of the Tenant's Application. The Tenant confirmed that she had not provided any documentary evidence prior to this hearing and was only relying on her oral testimony. The Landlord's agent confirmed that the Tenant had not provided any supporting evidence to prove her claim and therefore they did not submit any documentary evidence prior to this hearing.

The hearing process was explained and no questions of the proceedings were asked. The parties were given a full opportunity to provide their oral evidence, make submissions to me, and cross examine the other party on the evidence provided in relation to issues to be decided.

At the start of the hearing, the Tenant confirmed that she had not provided the Landlord with her forwarding address because she did not want the Landlord to know where she was living. In this respect, the Tenant was informed that pursuant to Section 38(1) of the Act, the Landlord's obligation to deal with the security deposit is not triggered until the Tenant provides a forwarding address in writing.

This does not have to be an address of residence, but an address where the Tenant may receive a Landlord's notice of a claim being made against the security deposit or the return of it. Accordingly, I determined the Tenant's Application for the return of her security deposit was premature and the Tenant is provided leave to re-apply. The Tenant must provide the Landlord with a forwarding address once she has this available.

The parties confirmed that the tenancy had ended. As a result, the Tenant confirmed that the only matter to be determined in this hearing was her monetary claim of \$400.00, as laid out in the Monetary Order Worksheet provided with the Application. Therefore, I dismissed the remainder of the Tenant's Application as these are now moot issues. I continued to then hear evidence and make findings on the Tenant's monetary claim for compensation and emergency repairs.

#### Issue(s) to be Decided

Is the Tenant entitled to monetary compensation for \$400.00?

#### Background and Evidence

The parties agreed that this tenancy started on May 1, 2016 on a month to month basis. Rent for this hotel room was \$475.00 payable by the Tenant on the first day of each month. The Tenant paid a security deposit of \$242.00 at the start of the tenancy.

The Tenant testified that an agent of the Landlord (separate to the one appearing for this hearing) broke into the room that she was renting without any written notice or permission from her. The Tenant testified that during this break and enter, that agent of the Landlord stole her iPhone.

As a result, the Tenant claims \$300.00 for the replacement lock and \$100.00 for the replacement of her cell phone. The Tenant was asked whether she had provided any receipts for these costs as she had indicated on the Monetary Order Worksheet that she had purchased the lock from Home Depot. The Tenant responded that she had obtained the lock from her friend and did not have any receipt for the iPhone.

The Tenant stated that she had called the police to report the incident but did not provide a police report.

The Landlord's agent vehemently denied the Tenant's allegations stating that the Tenant had no evidence of these false allegations. The Landlord's agent testified that no one from the hotel broke into the Tenant's room and that she often argued and fought with her boyfriend and this is likely where damage or theft may have resulted.

The Landlord's agent stated that he has no police reports or any hotel reports from the Tenant or the Landlord's agent to suggest that there was any break in of the Tenant's room. The Landlord's agent also submitted that the Tenant did not provide any evidence to verify the costs being claimed.

### Analysis

The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due.

In order to determine whether compensation is due, the arbitrator may determine whether: a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement; loss or damage has resulted from this non-compliance; the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

In this case, I find the Tenant has failed to provide sufficient evidence to prove her monetary claim against the Landlord. The Tenant was only able to rely on her oral evidence which was disputed by the Landlord's agent. Therefore, I am only able to find that this results in one party's word against the others, and the Tenant has failed to meet the above test.

I find the Tenant failed to establish sufficient evidence to show the Landlord or a staff member of the hotel broke into her room and caused the damage and loss the Tenant now claims.

The Tenant provided no corroborating evidence such as pictures or a police report to suggest that the Landlord was responsible for the alleged damage and stealing of the Tenant's phone. Furthermore, I find the Tenant provided insufficient evidence to verify the costs being claimed.

Conclusion

For the above reasons, the Tenant's Application is dismissed in its entirety 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 03, 2017

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Residential Tenancy Branch

