



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding GOODRICH REALTY  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT, FFT, ERP, LAT, LRE, OLC

### 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 that the Landlord comply with the *Act*, regulations or tenancy agreement pursuant to section 62;
- an order to allow the tenant to change the locks to the rental unit pursuant to section 70;
- an order that the landlord perform emergency repairs pursuant to section 33;
- an order to suspend or set conditions on the landlord's right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application pursuant to section 72.

Both parties appeared and were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The corporate landlord was primarily represented by its agent MH (the "landlord").

As both parties were present service of documents was confirmed. The landlord testified that they received the tenant's application for dispute resolution and evidence. The landlord said that that tenant refused to accept service of the landlord's evidence and it has not been served. In accordance with sections 88 and 89 of the *Act* I find that the landlord was served with the tenant's materials. I accept the undisputed testimony that the tenant has not been served with the landlord's evidence.

At the outset of the hearing the tenant testified that they have moved out of the rental unit and withdrew the portions of the application dealing with relief pertaining to a continuing tenancy.

#### Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

Is the tenant entitled to recover the filing fee for this application from the landlord?

#### Background and Evidence

The tenant testified that they moved out of the rental unit in February, 2018. The tenant said that the monthly rent for the tenancy was originally \$1,550.00 and raised to \$1,605 at the end of the tenancy.

The tenant testified that the rental unit suffered from deficiencies during the tenancy which the landlord refused to adequately repair or address. The tenant gave evidence that there was a water leak in the ceiling which eventually led to a moldy smell. The tenant seeks a monetary award in the amount of \$16,000.00, what the tenant claims is the equivalent of one year's rent for the loss of quiet enjoyment.

The landlord disputes the tenant's claim, states that they took reasonable efforts to address the tenant's complaints and there is no basis for a monetary award.

#### Analysis

The onus to show on a balance of probabilities that there is an evidentiary basis for their claim rests with the applicant.

Section 67 of the *Act* allows me to issue a monetary award for loss resulting from a party violating the *Act*, regulations or a tenancy agreement. 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 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. The claimant also has a duty to take reasonable steps to mitigate their loss.

I find that the tenant has provided insufficient evidence in support of their claim. The tenant gave vague, unfocused testimony and stated that he was uncertain of why he made his application for a monetary award. The tenant said that he filed his application pre-emptively as he felt the landlord may make a future application. The tenant said that the rental unit suffered leaks causing him inconvenience. The tenant submitted into documentary evidence some photographs and correspondence.

I find that the tenant has not provided sufficient evidence to show that there was damage or loss which resulted from the landlord's actions or negligence. The tenant's claim for a monetary award of \$16,000.00 is not supported in the evidence. The tenant gave no evidence that there has been a loss sustained. I find that the evidence does not support that there has been any breach by the landlord.

For these reasons I dismiss the tenant's claim without leave to reapply. As the tenant's claim was unsuccessful the tenant is not entitled to recover the filing fee for this application.

### Conclusion

The tenant's application 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: April 25, 2018

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Residential Tenancy Branch