



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Code SS, MND,

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the Residential Tenancy Act (the “Act”), to be allowed to change the locks, and for monetary compensation for money owed or loss under the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

### Preliminary and Procedural matter

As the tenancy has ended, I find it not necessary to consider the tenants request to change the locks.

### Issue to be Decided

Is the tenant entitled to monetary compensation?

### Background and Evidence

The parties agreed that they entered into a fixed term tenancy which began on February 23, 2018. Rent in the amount of \$850.00 was payable on the first of each month. The tenant paid a security deposit and pet damage deposit in the total amount of \$750.00.

The tenancy ended by mutual agreement on May 30, 2018. The parties agreed that the landlord has returned the tenant’s security and pet damage deposit.

The tenant claims as follows:

a.	Return of rent for March, April and May 2018	\$2,500.00
	<b>Total claimed</b>	<b>\$2,500.00</b>

The tenant testified that they seek to have the return of all their rent that they have paid since the tenancy started for loss of quiet enjoyment.

The tenant testified that the landlord was away for an extended period of time and during this time, there were problems with other occupants.

The tenant testified that on March 4, 5, 6, 10, 11, 19, 20 and 27 and again on April 20, 2018, there was yelling, fighting and slamming. The tenant stated that these incidents would normally occur in the evening.

The tenant testified that the police attend on at least four occasions for incidents that occurred with the occupants LM and MD, who were acting as caretaker when the landlords were away. The tenant stated that as a result of these incidents the landlords banned the occupant LM, from the property on March 10, 2018.

The tenant testified that they saw LM back on the property; however, that did not result in any further incidents.

The tenant testified the MD harassed them by yelling at them and talking rudely to them. MD also threatened to have their dog bite them.

The tenant testified that they also found a baby rat in the kitchen. The tenant stated that the landlords refused to do anything about the rat and were rude in their response to them. The tenant stated that there were no other signs of rats in the premises and assumed there must have been a nest of rats.

The landlords' testified that they were 3,000 miles away and they were dealing with any issue that arose; however, there may have been a delay due to them travelling.

The landlords' testified that the police attend due to domestic problems on two occasion which they dealt with; however, the other two occasions were only in response to a medical situation where the ambulance was called and the police followed.

The landlords' testified that they live by the forest and rats can be expected from time to time.

MK testified that they did mumble under their breath to their dog to bite the tenants; however, it was poor judgement on their part and they apologized. MK stated that the dog is gentle and would never bite anyone.

## Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenant has the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

In this case the tenant provided nine dates; however, only provided evidence for four of those dates.

I accept the evidence of the tenant that there was a domestic dispute between the occupants MD and LM on two occasions. I accept the evidence of the landlords that on the other two occasions were due to medical issues which resulted in the ambulance attending and taking one of the occupants to the hospital; the police attended simply for this purpose.

I accept these incidents were disrupted to the tenant; however, the landlord cannot be held responsible for medical issues that result in the police attendance. Further, while I accept there were two domestic disputes, the evidence of the tenant was that they informed the landlords and the landlord banned LM from the property on March 10, 2018.

While I accept LM returned to the property the evidence of the tenant was that there were no further incidents. This leads me to question what occurred after March 10, 2018 and with whom as the tenant provided no testimony other than dates.

I accept the tenant found a baby rat; however, there was no further evidence of any other rats. I find it would be unreasonable for the tenant to expect the landlord to hire a pest control company when there were no signs of a rat infestation.

I accept that the comments MD made towards the tenant were inappropriate when telling the dog to bite the tenant. MD acknowledged at the time that it was poor judgment and apologized.

While I accept there were some issues during the tenancy, and the parties agreed by mutual agreement to end the fixed term tenancy. However, I find the tenant has not met the burden of proof to prove the landlords have violated the Act, which would entitled the tenant to the return of all the rent they paid during the tenancy. Therefore, I dismiss the tenant's application for the return of all rent paid during their tenancy.

### Conclusion

The tenant's 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: July 06, 2018

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Residential Tenancy Branch