



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes

ERP MNDC OLC PSF

### Introduction

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

- an order to the landlord to make repairs to the rental unit pursuant to section 33;
- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement pursuant to section 67;
- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62; and
- an order to the landlord to provide services or facilities required by law pursuant to section 65.

At the outset of the hearing the tenant testified that she has given notice to end the tenancy and is only seeking the portion of the application dealing with a monetary order and withdrew the remaining portions of the application.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another.

The landlord confirmed receipt of the tenant's application for dispute resolution and evidence. Based on the undisputed evidence I find that the landlord was served with the hearing package in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the tenant entitled to a monetary award as claimed?

### Background and Evidence

The parties agreed on the following facts. This periodic tenancy began in February, 2018. The monthly rent at the start of the tenancy was \$2,200.00. The current monthly rent is \$2,000.00 payable on the first of each month. A security deposit of \$1,100.00 and pet damage deposit of \$1,100.00 were paid at the start of the tenancy and are held by the landlord. No move-in condition inspection report was prepared.

The tenant submits that the rental unit was filled with deficiencies and was in a state of disrepair. Among the issues mentioned by the tenant are leaks from pipes, uneven floors, mold on the floors, a malfunctioning stove, lack of carbon monoxide monitors, and carbon monoxide leaks. The tenant submitted into written evidence five photographs in support of their application.

The tenant testified that she suffered various detrimental health effects due to the condition of the rental suite. The tenant said that her family members also suffered negative health consequences. The tenant submits that she incurred costs for enacting some of the repairs when the landlord failed to do so in a timely manner. The tenant said that the deficiencies in the rental suite were identified at the start of the tenancy and the landlord had promised they would be rectified in a timely manner.

The landlord testified that they performed the repairs requested by the tenant in a reasonable time. The landlord testified that not all of the issues raised by the tenant at the hearing were brought up previously. The landlord did confirm that there was some delay in responding to the tenant's request due to family circumstances but stated that the delay was not unreasonable or inordinate.

### Analysis

Residential Tenancy Rules of Procedure 6.6 provides that the person making a claim must prove their case on a balance of probabilities.

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 there is insufficient evidence in support of the tenant's claim for a monetary award. I find that there is little documentary evidence in support of the tenant's testimony. I find that the few photographs submitted are insufficient to conclude that the rental unit required repairs of

either the nature or scope that the tenant claims. The tenant claims that they suffered health effects due to the rental unit and that they have medical information in support but failed to submit any documents in to evidence. The tenant claims that they engaged in lengthy correspondence with the landlord about the nature of the repairs required from the outset of the tenancy but no documentary evidence was submitted on this point. The tenant claims that there was flooding which damaged personal possessions but the tenant failed to submit a list of items or their value.

I find that the tenant's application consists primarily of generalized complaints without compelling details or documentary evidence in support of the submissions. I find that the evidence submitted by the tenant to be insufficient to support their claim for a monetary award. I find that a handful of photographs of a floor, close up of a pipe, or a stove to be sufficient evidence to show that the rental unit required repairs. I do not find that the scan of a portion of correspondence or a utility notice dated September 27, 2018 to be sufficient evidence that there were deficiencies for the majority of the tenancy.

I find that on a balance of probabilities the tenant has failed to show that there has been a violation of the Act, regulations or tenancy agreement on the part of the landlord, that any damages were suffered as a result or what the monetary amount of damages may be. I find that the tenant has not proven their case on a balance of probabilities and met their evidentiary burden. For these reasons the tenant's application is dismissed.

### 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: October 16, 2018

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Residential Tenancy Branch