



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OLC, MNDC

### 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 requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62.

The tenant attended the hearing via conference call and provided undisputed affirmed testimony. The landlord did not attend or submit any documentary evidence. The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on July 13, 2018. The tenant provided copies of the Canada Post Customer Receipt and Tracking label as confirmation of service. I accept the tenant's undisputed evidence that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on July 13, 2018 and find that although the landlord failed to attend, the landlord is deemed served as per section 90 of the Act.

### Issue(s) to be Decided

Is the tenant entitled to a monetary order for compensation?

Is the tenant entitled to an order for the landlord to comply with the Act, regulations or tenancy agreement?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

During the hearing the tenant confirmed that he no longer resides at the rental unit as of July 14, 2018 and as such, the tenant's request for an order for the landlord to comply with the Act, regulations or tenancy agreement was cancelled by the tenant. No further action is required for this portion of the application.

The tenant seeks a monetary claim of \$725.00 which consists of:

|          |   |
|----------|---|
| \$350.00 | Compensation, 50% of monthly rent, May 15-June 15, 2018 |
| \$350.00 | Compensation, 50% of monthly rent, June 15-July15, 2018 |
| \$25.00  | Compensation, Bedsheets, heater, cleaning supplies      |

The tenant stated that he rented one bedroom of a two bedroom basement unit, shared with another tenant. No signed tenancy agreement was made. The tenant stated that the monthly rent was \$700.00 and that a security deposit of \$350.00 was paid.

Throughout the hearing the tenant would provide general details regarding his monetary claim even after repeated attempts were made to request specific details of the claim. The tenant would provide conflicting and contradictory evidence that although there was no signed tenancy agreement, he was renting the entire basement. During the hearing the tenant was referred to the copy of the online ad provided by the tenant in which it states,

**"New house furnished rooms for rent**, there are 3 rooms on the top floor for rent, short rent and long. \$700-\$800 for one mth and the two people share toilet. \$70 by day. Bathroom are inside included hydro.heat.highspeed wireless internet, cable and washer&dryer..."

A further reference to the tenant's letters dated June 4, 2018 and June 29, 2018, where it states in part,

"...I wish that you had told me some details about place when I came on May 15/2018 interested in **renting room**."

The tenant argued that his rental was for the entire basement but was unable to provide an explanation of the noted online ad or the tenant's letter submission.

The tenant provided undisputed affirmed testimony that the landlord and the other tenants would enter the rental unit (shared kitchen/ common area) without notice or permission causing him a loss of quiet enjoyment and that the landlord failed to investigate complaints of tenant caused disturbances. The tenant claims that the landlord was unresponsive to his questions or concerns regarding the tenancy. The tenant stated that the upstairs and other downstairs tenants would frequently enter through a locked door to use the basement kitchen. The tenant confirmed that these other tenants had a key to the locked door.

The tenant stated that the tenancy was devalued to 50% as a result of the landlord's inaction and the action of the other tenants and seeks 50% of the monthly rent returned as compensation for the two months for the period May 15-June 15 and again June 15-July 15, 2018. The tenant stated that the devaluation was based upon what he "felt" was fair and because of the aggravation and stress that the tenant suffered as the landlord failed to communicate and respond to his issues.

The tenant did not provide any further details on the remaining \$25.00 claim for bedsheets, heater or cleaning supplies. No mention of invoices/receipts or expenses incurred were reported.

In support of this claim, the tenant has provided copies of:

- A photograph of an online ad, "New house furnished rooms for rent, there are 3 rooms on the top floor for rent, short rent and long. \$700-\$800 for one mth and the two people share toilet. \$70 by day. Bathroom are inside included hydro.heat.hightspeed wireless internet, cable and washer&dryer..."
- 5 photographs of the interior and exterior of the rental premises
- A letter dated June 4, 2018, re: lack of response by landlord to tenant issues
- A letter dated June 29, 2018, re: complaint letter to landlord re: "renting a room".

- A letter dated July 3, 2018, re: statement of issues with landlord, “I discovered that our kitchen is for all tenants to use, they enter our unit to cook food from upstairs.”
- 2 photographs of handwritten note by tenant, re: payment of rent and deposit
- Two receipts for rent issued to tenant for May 16, 2018 and June 15, 2018
- A handwritten letter dated May 28, 2018 from the tenant to the landlord, re: notice to end tenancy and written request for return of security deposit
- A mutual agreement to end tenancy dated May 28, 2018
- 1 photograph of the refrigerator interior, freezer
- 1 photograph of the refrigerator interior
- 1 photograph of an electric heater

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. 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 of the *Act* 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.

I note that a large portion of the tenant’s arguments were in regards to a co-tenant sharing the basement unit, the tenant across the hall and the upstairs tenants all accessing and using the basement kitchen without his permission. A review of the tenant’s submission of an online ad that he had responded to shows that he was renting a furnished room which contradicts the tenant’s claims that he was renting the entire basement suite for \$700.00 per month.

I accept the undisputed affirmed testimony of the tenant however find that the tenant has failed to establish a claim for the amount of \$725.00 as detailed. Although the tenant has provided undisputed evidence that the landlord entered the rental unit without notice or permission, the tenant has failed to establish how this would equate to the loss of use/loss of quiet enjoyment of a rental unit of 50% of the rent (or a devalued tenancy of 50% equal to \$350.00 per month) for the two month period between May 15 to July 15, 2018. The tenant argued that these claims were out of fairness and the aggravation suffered by the tenant by the landlord with no details of an actual amount/expenses which the tenant suffered a loss. I also find that the tenant has failed to provide sufficient details for the remaining portion of the \$25.00 claim regarding, bedsheets, heater and cleaning supplies. The tenant has failed to provide sufficient evidence that a tenancy was established giving the tenant exclusive rights to the basement unit. On this basis, I find that the tenant's application is dismissed.

### 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: September 10, 2018

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Residential Tenancy Branch