



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      FF MNDCT

### Introduction

This hearing was convened in response to an application by the tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

- a monetary award for loss under the tenancy agreement pursuant to section 67 of the *Act*;
- a return of the filing fee pursuant to section 72 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present testimony, to make submissions and to call witnesses. The landlord confirmed receipt of the tenant’s application for dispute and evidentiary packages.

### Issue(s) to be Decided

Is the tenant entitled to a monetary award?

Can the tenant recover the filing fee?

### Background and Evidence

Testimony provided to the hearing by the landlord explained this tenancy began in August 2015 and ended on January 31, 2018. Rent was \$425.00 per month.

The tenant said she was seeking a monetary award of \$2,200.00. The tenant alleged the rental unit did not contain sufficient heat and she was distressed as a result. The tenant argued she had brought the issue of a broken heater to the landlord’s attention on several occasions; however, she said this issue was not addressed. The tenant could not say how she arrived at the figure of \$2,200.00. The tenant submitted several emails as evidence which she argued were indications that her complaints regarding the lack of heat went acknowledged.

The landlord disputed that he did not address the tenant's concerns as they related to heat in the home. The landlord acknowledged that at times heating in the home was problematic but said he brought heating contractors into the premises on two occasions. The landlord continued by explaining that despite the attendance of these contractors that heating issues persisted. This led the landlord to replace the entire furnace in May 2017 at a significant cost. The landlord said he would bring space heaters to the tenants when heating issues were identified to him and when furnace issues persisted. As part of his evidentiary package the landlord submitted records for two years of heating bills along with service records for the furnace. The landlord also included two sworn statements from former tenants. One tenant who occupied the premises from June 2016 to February 2018 said he was "very satisfied with the heat in the house", while another tenant who occupied the rental home since October 2014 noted the attendance of heating contractors on four occasions.

### 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. In this case, the onus is on the tenant to prove her entitlement to a claim for a monetary award.

The tenant has applied for a monetary award of \$2,200.00, though no specific breakdown of this figure was provided. The tenant cited numerous alleged shortcomings with the property as they related to heat. The tenant said the landlord ignored her repeated requests to repair the heater and she maintained she did not have heat for one year.

Section 32(1) of the *Act* states, "A landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant."

After having reviewed the evidence submitted by both parties and having considered the testimony presented. I find the tenant has failed to demonstrate her entitlement to a monetary award. The landlord provided several heating bills showing heat was both provided to and paid for the property, he supplied work invoices from furnace technicians who attended the property and explained the furnace was eventually replaced at great expense. I find the landlord has fulfilled his duties pursuant to section 32 of the *Act*.

The tenant has failed to provide sufficient detail in her application package demonstrating loss under the tenancy and for the reasons cited above, I find that the tenant is not entitled to a monetary award.

### Conclusion

The tenant's application for a monetary award is dismissed without leave to reapply.

The tenant must bear the cost of her own filing fee.

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 6, 2018

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Residential Tenancy Branch