



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      Tenant: MNDC FF RP LRE  
Landlord: MNDC FF

### Introduction

This hearing, held on January 15, 2019, and February 28, 2019, was convened as a result of a cross Application for Dispute Resolution. Both parties applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the “Act”).

The Landlords (and property manager) and the Tenant (and witness) attended the hearing. All parties provided testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other’s documentary evidence and application packages.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

Both parties applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues deal with whether or not repairs are required (still

outstanding), given these repairs will impact the pending monetary claims. As a result, I exercised my discretion to dismiss all of the grounds both parties have applied for, with leave to reapply, with the exception of the following claim:

- Is the Tenant entitled to an order requiring the Landlord to make repairs to the rental unit?

#### Issue(s) to be Decided

- Is the Tenant entitled to an order requiring the Landlord to make repairs to the rental unit?

#### Background and Evidence

The Tenant testified that he has had several issues with the rental unit since he moved in. The Tenant stated that there was a previous hearing in the fall of 2018 (file number and decision provided/referenced), regarding a Notice to End Tenancy for Cause. This Notice was set aside, and a few orders for repairs were made. The following is a list of the orders that arbitrator made for repairs to the rental unit:

1. *By no later than November 15, 2018, the Landlords shall hire a different qualified plumber to investigate and repair the problems in the plumbing which are causing the excessive noise.*
2. *By no later than November 8, 2018 the Landlords shall ensure the Tenant has access to the electrical panel for the rental unit.*
3. *By no later than November 15, 2018 the Landlords shall replace all of the windows in the rental unit.*

During the hearing, the Tenant spoke to each of these items, and indicated that, although it took longer to do the above repairs than he had hoped, they were completed. The Landlord corroborated that the above repairs had been completed.

The Tenant also raised an issue on his current application with respect to the entrance and pathway to his suite. The Tenant stated that the path leading to his suite does not have proper footing, and is a slipping hazard when it freezes and rains. The Tenant stated that this issue is exacerbated by the fact that the gutter along this portion of the house drains directly into the path and creates mud and ice. The Tenant is seeking to have this repaired, as it poses a major slipping hazard.

The Landlord acknowledged the issue with this area, both the gutter and the pathway, and stated that they have already contacted a tradesman to perform these repairs. The Landlord stated that this work cannot be done this early in the season, since the ground is still frozen, but they are planning on completing the work as soon as they can. The Landlord stated that they plan on having the gutter/downspout re-routed, and a post installed into the ground to attach and re-route this piping away from the house. The Landlord stated that they are also planning on putting down concrete slabs for the walkway, so that it is less muddy and slippery. The Landlord stated that both of these jobs, the gutter and the walkway, require the ground to be thawed and the weather to have improved. The Tenant would like it done sooner rather than later.

The Tenant stated also stated that he would like some “repairs” done to the internet. The Tenant pointed out that, as per his Tenancy Agreement, internet is included in rent. The Landlord agreed that internet is included in rent, presently. The Tenant stated that the internet service is not very reliable and the Tenant estimated that the router/modem needs to be reset around once a week. The Tenant stated that the issue with this is that the modem/router is located in the upper rental unit, and the Tenant does not have access to it, so he has to send a message to have the upper unit reset the hardware in order to get the internet back up and running. The Tenant would like to have the modem installed in the common electrical room where he has access, in the event it needs resetting.

The Landlord stated that the router/modem cannot be installed in the shared electrical room because it is too far from the house, and wifi would not work that far. The Landlord stated that the internet is functional and sufficient. The Landlord stated that if the Tenant wants faster, and better internet service, then he is free to install his own service. The Landlord stated that they are fulfilling their obligations under the tenancy agreement because internet is provided, and available, and is working.

### Analysis

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities.

First, I turn to section 32 of the Act:

### **Landlord and tenant obligations to repair and maintain**

**32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

After considering the evidence before me, I note the Tenant has provided some evidence with respect to some outstanding repairs. The first I will address is the pathway, and gutter area.

I note the consistent evidence is that there are some issues with the gutter, and the walkway area. I note the Landlord has acknowledged these issues and has already taken steps (spoken to contractors and developed a plan) but I also note it is currently winter and it is not an appropriate time to do landscaping and digging, especially when the ground is frozen and there is snow. After considering the time of the year, and the nature of the jobs that need to be done (digging for posts to re-route the gutter, and laying walkway stones), I find the Landlord is not required to perform these repairs right away. That being said, some of these issues with gutters, water, and walkway drainage will become more of an issue as the weather warms, and the ground thaws. This will be timed, in unison, with the Landlord's ability to repair these issues. As such, I order the Landlord to repair the gutter and the walkway as soon as practicable. I encourage both parties to be reasonable with how and when this occurs, but the repairs should be done as soon as the weather permits.

With respect to the internet issue, I note the parties agree that internet service is part of the tenancy agreement. I note the Tenant is not happy with the occasional service interruptions (having to ask the upper unit to reset the router). However, it appears this only happens around once a week or so. Also, I find that it is not appropriate to install the router/modem in the shared utility room, as it is too far from the rental units (for wifi coverage). It is not reasonable for the tenant to expect the Landlord to install the router in his unit, in turn denying the upper unit from access to the modem. I appreciate the current setup is not without its flaws. However, it appears these flaws are reasonable given that this service is shared between the upper and lower units. Further, I find there is insufficient evidence that installing a signal booster or other such hardware would actually remedy the issue. I note the Landlord stated the internet service has recently been upgraded and there should be no problem with the actual service. Ultimately,

there is insufficient evidence that the Tenant's internet service disruptions are such that he is entitled to an order that the Landlord repair this service. I dismiss this portion of the Tenant's application, without leave to reapply.

As the Tenant was only partly successful with his application, I decline to award him the recovery of the filing fee, pursuant to section 72 of the Act.

Conclusion

I order the Landlord to repair the walkway and the gutters, as laid out above, as soon as practicable (weather dependant).

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: February 29, 2019

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Residential Tenancy Branch