



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants filed under the Residential Tenancy Act (the “Act”), for a monetary order for money owed or loss under the Act, and to recover the cost of the filing fee.

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 tenant confirmed that they received the landlord’s evidence. The tenant stated that they did not serve the landlord with their evidence.

As the tenants did not serve their evidence on the landlord as required by the Residential Tenancy Rules of Procedures, I have excluded their documentary evidence from being reviewed.

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.

### Issue to be Decided

Are the tenants entitled to a monetary order for money owed or loss?

### Background and Evidence

The parties agreed that the tenancy began on July 1, 2018. Rent in the amount of \$2,000.00 was payable on the first of each month. The tenants paid a security deposit

of \$1,000.00. The tenancy ended on February 28, 2019. The security deposit was returned to the tenants.

The tenants claim as follows:

|    |                      |                   |
|----|----------------------|-------------------|
| a. | Return of rent       | \$1,285.00        |
| b. | Loss of wages        | \$ 673.00         |
| c. | Moving costs         | \$ 475.00         |
| d. | Storage costs        | \$ 99.45          |
| e. | Filing fee           | \$ 100.00         |
|    | <b>Total claimed</b> | <b>\$2,632.55</b> |

The tenant testified that due to a flood in the rental unit on February 10, 2019, that they move out of the rental unit and stayed with their parents. The tenant stated that they should be entitled to return of prorated rent for 18 days from February 10 to February 18, 2019. The tenants seek to recover a portion of the rent in the amount of \$1,285.00.

The tenant testified that they had to let the workers into the rental unit for the repairs to be made. The tenant testified that they lost one week of work. The tenant stated that they estimated the amount of loss based on two previous months of work as they are self-employed. The tenant did not file any documents related to employment as evidence or provide a copy to the landlord.

The tenant testified that because of the flood in the rental unit they were required to move. The tenants seek to recover the cost of the moving fees in the amount of \$475.00. The tenants did not file a receipt as evidence or provide a copy to the landlord.

The tenant testified that because of the flood in the rental unit they had to pay storage fees. The tenants seek to recover storage fees in the amount of \$199.45. The tenants did not file a receipt as evidence or provide a copy to the landlord. The tenant confirmed that they did not carry tenants insurance.

The landlord testified that there was not a flood in the rental unit; however, there was a leak in a pipe in the ceiling, causing water to rundown the wall and some ceiling damage. The landlord stated that they do not own the building.

The landlord testified that the leak did not make the rental unit unlivable as there was only a small portion in one room that they had to remove a portion of the ceiling where the leak was coming from.

The landlord testified that they attended as soon as they were notified of the problem and the work was completed within a reasonable time frame. The landlord stated that the tenants were living in the rental unit the entire time.

The landlord testified the male tenant did not lose any work because of the leak as it was always the female tenant that was there when they attended.

### 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 tenants have 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 there was a water leak in a pipe in the building, which caused water to leak into the rental unit. I do not accept the evidence of the tenant that the entire unit was flooded, which required them to vacate the premises, as the area of the flood was very limited and their belongings remained in the unit.

In addition, the flood was not caused by the landlord or from lack of maintenance by the landlord as the pipe that leaked was in an interior wall, which is not owned by the

landlord. The landlord cannot be held responsible for matters that they have no control over. However, I find the landlord took reasonable step to address the issue of the leaking pipe once notified. I find the tenants have failed to prove a violation of the Act. Temporary inconvenience is not grounds for compensation.

Further, I am not satisfied the male tenant lost any work that was a direct resulted to the water leak as no documentary evidence was submitted. Even if I accept the tenant's version that they were letting workers into the rental unit, I find that there was no requirement for the tenants to be there, as the landlord's agent or the building manager could have access the unit in their absence.

Also, the tenant previously testified that they were not living in the rental unit from February 10 to February 18, 2019. I find it highly unlikely that the tenants would return to the premises to let the workers in. This makes me question the credibility of the tenant on the issue of not living in the rental unit.

Furthermore, I find the tenants failed to mitigate as they did not carry tenant's insurance which would pay for cost that are related to a flood, such as moving, storage and other related costs. I find the landlord is not responsible for the tenants' lack of insurance.

In light of the above, I find the tenants have failed to prove a violation of the Act by the landlord. Therefore, I dismiss the tenants' claim without leave to reapply.

### Conclusion

The tenants' 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 09, 2019

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Residential Tenancy Branch