



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      RP MNDCT

### Introduction

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

- A monetary award for damages and loss pursuant to section 67; and
- A repair order pursuant to section 33.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses. The tenant was assisted by a family member. The landlord was primarily represented by their property manager.

As both parties were present service of documents was confirmed. The parties each confirmed receipt of the other's materials. Based on the testimonies I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

At the outset of the hearing the tenant testified that the issues requiring repair in the rental unit has been resolved and withdrew that portion of their claim.

### Issue(s) to be Decided

Are the tenants entitled to a monetary award as claimed?

### Background and Evidence

The parties agreed on the following facts. This periodic tenancy began in December, 2017. The current monthly rent is \$2,250.00 payable on the 1<sup>st</sup> of each month.

On May 4, 2019 the tenant reported issues with the refrigerator in their rental unit. The landlord arranged for the appliance to be examined and repaired. The parties agree that the refrigerator was ultimately repaired and fully functioning as of July 8, 2019. During the time that the refrigerator was unusable the landlord testified that they provided a replacement mini-freezer for the tenants to use for storage of some of their foodstuffs. The landlord confirmed they did not provide any other replacement appliances as they had none available. The landlord submits that they took reasonable steps dealing with tradespeople, manufacturers and delivery agents to provide the tenants with a working refrigerator in a reasonable period of time.

The tenant submits that the 2 month period when they were without a working refrigerator was longer than reasonable. The tenant submits that as a result of the malfunctioning appliance they suffered damages and loss in the following amounts:

| Item                                       | Amount            |
|--|-------------------|
| Spoiled Food                               | \$500.00          |
| Dining Out                                 | \$300.00          |
| Gas Expense (Trips to Grocery)             | \$60.00           |
| Inconvenience Distress                     | \$1,500.00        |
| Time Spent Grocery Shopping (\$13.85 x 56) | \$775.00          |
| <b>TOTAL</b>                               | <b>\$3,135.00</b> |

The tenant did not provide documentary evidence by way of receipts or invoices for their losses. As explanation for their calculation of time spent grocery shopping the tenant wrote:

I get paid \$13.85 per hour. However due to broken refrigerator I had to be the one who have to go grocery for 56 days (8 weeks)  $13.85 \times 56 = \$775$

### 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. This section can be read in conjunction with section 65 (1)(f) of the *Act*, which allows me to reduce the past rent by an amount equivalent to the reduction in value of a tenancy agreement

I find that the tenants have not met their evidentiary burden on a balance of probabilities. While the parties agree that the refrigerator in the rental unit was broken for a period of time, based on the documentary evidence including correspondence between the parties and between the landlord and tradespeople, I find that the landlord took reasonable actions to resolve the issue in a timely manner. I find that the landlord acted reasonably and there was no violation of the *Act*, regulations or tenancy agreement such that would give rise to a monetary award for damages or loss.

While I accept that the loss of a refrigerator had some negative impact on the value of the tenancy I find the tenants' suggestions of an appropriate figure is not supported in the evidence.

Furthermore, I find that the tenants have failed to provide documentary evidence or details of their losses. I find that there is insufficient evidence that the tenants lost foodstuffs valued at \$500.00, that they needed to dine out or that there were frequent trips made to buy groceries. The tenants did not provide evidence to indicate that they would have utilized the refrigerator regularly or the frequency with which they would normally shop or dine at home. I find the tenants' calculation of the value of their time spent grocery shopping to have no basis. It is unclear if the tenants are claiming that they suffered a loss of income for 56 hours spent shopping or that they believe they are entitled to be paid for their time. I find that there is no documentary evidence showing that the tenants suffered any loss of income or to show that the tenant's submission that they are entitled to be paid \$13.85 per hour arises from anything more than the tenant's mind.

I accept that losing access to a working refrigerator in one's rental suite has some negative impact on the value of a tenancy. However, in the absence of persuasive evidence submitted by the tenant pertaining to that impact I find that an appropriate monetary award is \$200.00, approximately 5% of the value of the tenancy for each of the 2 months the refrigerator was unavailable to be appropriate.

### Conclusion

I issue a monetary order in the tenants' favour in the amount of \$200.00.

As this tenancy is continuing, I allow the tenants to recover the filing fee by making a one-time reduction of their next monthly rent payment by that amount. In the event that is not possible I issue an order in that amount.

The tenants are provided with these Orders in the above terms and the landlords must be served with this Order as soon as possible. Should the landlords fail to comply with these Orders, these Orders may be filed in the Small Claims Division of the Provincial Court and enforced as Orders of that Court.

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 16, 2019

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Residential Tenancy Branch