



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNDCT, FF

### Introduction

This hearing dealt with the tenants' application for dispute resolution under the Residential Tenancy Act ("Act"). The tenants applied for an order cancelling the landlord's 10 Day Notice to End Tenancy for Unpaid Rent, a monetary order for money owed or compensation for damage or loss, and for recovery of the filing fee paid for this application.

The tenant GJ, the landlords, and the landlords' agent attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process. At the outset of the hearing, neither party raised any objections to the service of the application or the evidence.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, digital and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary Issue

The tenant said they vacated the rental unit on July 15, 2019, and as a result, I have amended their application to exclude their request to cancel the 10 Day Notice issued by the landlords.

### Issue(s) to be Decided

Are the tenants entitled to monetary compensation and to recovery of the filing fee paid for this application?

### Background and Evidence

The evidence showed that this tenancy began on August 15, 2017, that monthly rent was \$1,350.00 and that the tenants paid a security deposit of \$675.00 and a pet damage deposit of \$325.00. The landlords supplied a copy of the written tenancy agreement.

The parties agreed that the tenants moved out of the rental unit on July 15, 2019.

The tenants' monetary claim is as follows:

ITEM DESCRIPTION	AMOUNT CLAIMED
1. Food replacement	\$26.94
2. Food replacement	\$30.17
3. Food replacement	\$21.33
4. Food replacement	\$20.00
5. Food replacement	\$26.88
6. Cleaning	\$600.00
7. Food replacement	\$135.03
8. Food replacement	\$3.99
9. Upholstery cleaning	\$178.50
10. Alternative Accommodation	\$1,329.99
<b>TOTAL</b>	<b>\$2,372.83</b>

In support of their application, the tenant submitted written evidence stating that they are entitled to the costs claimed due to a fire caused by a faulty gas install and/or faulty

new oven. The tenant submitted that he was home at the time the fire broke out and he used his fire extinguisher. The tenant submitted he took in too much smoke, he was taken to emergency and he is still under medical observation.

The tenant submitted that he and his family were displaced for 12 days and went 19 days with no cooking facility, 10 days of that with nothing at all and the other 9 days with an inadequate cooking facility for a family of 4.

The tenant also submitted that their couch was covered in smoke and with fire extinguisher debris. The tenant submitted that the couch cost his in-laws \$600.00.

The tenant submitted that they had to pay for alternate accommodation during the remediation, in his mother-in-law's basement suite, and although he has not paid the amount claimed, it is still due.

The tenant submitted that they spent three days at eight hours per day in cleaning the rental unit, for a total of \$600.00.

The tenant submitted that his wife had grocery shopped the morning of the fire and the tenant said that they were unable to use the food, as the restoration recommended they not go back in. As a result, they are entitled to compensation for lost food.

#### *Landlords' response-*

As to the food costs claimed by the tenants, the landlord submitted that it was their understanding that an insurance policy would have paid for those costs, had the tenants obtained tenants' insurance, as they had been strongly advised to do.

As to the cleaning costs, the landlord submitted that the restoration company did clean the entire rental unit, but did not clean the couch.

As to the separate accommodation, landlord, SLM, said it is her understanding that the restoration company hired by their insurance company gave the tenants the green light after four days to return to the rental unit. The landlord submitted that the tenants stayed long after being given approval to move back in, but they did give the tenants a credit on their monthly rent, \$50.00 per day for five days.

The landlord submitted further that there was a fire inside the stove and the alternative to using a fire extinguisher would have been to turn off the stove itself. The landlord

submitted that the fire department said the oven was still on, they pulled out the stove and turned off the gas.

The landlord submitted that tenants' insurance would have covered all the costs claimed by the tenants and that the fire and damage were dealt with immediately by the remediation company.

### Analysis

Section 67 of the Act provides that, where an arbitrator has found that damages or loss results from a party not complying with the Act, an arbitrator may determine the amount of that damage or loss and order the wrongdoer to pay compensation to the claimant. The claimant bears the burden of proof. The claimant must show the existence of the damage or loss, and that it stemmed directly from a violation of the agreement or a contravention of the Act by the wrongdoer. If this is established, the claimant must provide evidence of the monetary amount of the damage or loss. The amount of the loss or damage claimed is subject to the claimant's duty to mitigate or minimize the loss pursuant to subsection 7(2) of the Act.

I find the tenants have not shown that the landlords were negligent or have violated the Act as there was no disagreement that the fire was unforeseen.

I therefore find that the tenants have not proven that the landlords failed to comply with the Act or their tenancy agreement.

I also find that the tenants did not take reasonable steps to mitigate their loss with the purchase of tenant's insurance, which generally covers expenses for damage to contents, storage, hotel, gas, moving, and food costs.

Therefore, for the above reasons, I dismiss the tenants' application, without leave to reapply.

### Conclusion

The tenants' application is dismissed, without leave to reapply.

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: August 7, 2019

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Residential Tenancy Branch