



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT, PSF, AAT, OT, FFT

### Introduction

On June 11, 2020, the Tenant applied for a Dispute Resolution proceeding seeking a Monetary Order for compensation pursuant to Section 67 of the *Residential Tenancy Act* (the “*Act*”), seeking access to the rental unit pursuant to Section 30 of the *Act*, seeking provision of services and facilities pursuant to Section 62 of the *Act*, and seeking recovery of the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing, and the Landlord also attended the hearing with T.C. All parties provided a solemn affirmation.

The Tenant advised that she served the Notice of Hearing and evidence package to the Landlord by registered mail on or around June 12, 2020 and the Landlord confirmed that he received this package on or around that date. Based on this undisputed testimony, and in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served the Notice of Hearing and evidence package. As such, I have accepted this evidence and will consider it when rendering this Decision.

The Landlord advised that he served his evidence by hand and by registered mail on June 27, 2020 and the Tenant confirmed that she received this evidence on June 28, 2020. As such, I have accepted this evidence and will consider it when rendering this Decision.

As per Rule 2.3 of the Rules of Procedure, claims made in an Application must be related to each other, and I have the discretion to sever and dismiss unrelated claims. The Tenant advised that she had her claims narrowed down to a laundry issue and compensation regarding unsafe living conditions. As such, this hearing primarily addressed these issues and the other claims were dismissed with leave to reapply. The Tenant is at liberty to apply for any other claims under a new and separate Application.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Issue(s) to be Decided

- Is the Tenant entitled to provision of services or facilities?
- Is the Tenant entitled to monetary compensation?
- Is the Tenant entitled to recover the filing fee?

#### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on December 1, 2019, that rent was established at \$1,600.00 per month, and that it was due on the first day of each month. A security deposit of \$800.00 was also paid. A signed copy of the tenancy agreement was submitted as documentary evidence.

The Tenant advised that she had an incident with another tenant in the property over laundry. Despite having a shared laundry facility with this tenant, as this person did not want to share the facilities, she prevented the Tenant from removing her laundry on May 3, 2020. It escalated to the point where the other tenant threatened her, and the police were called. In an effort to reduce conflict between the two tenants, the Landlord created a schedule for the tenants to follow regarding when to do laundry. The Tenant stated that the other tenant sent her threatening text messages regarding this laundry dispute and she referenced these texts that were submitted as documentary evidence.

The Tenant then stated on June 13, 2020, this other tenant was blasting her music, so the police were called with respect to this noise complaint. She stated that this other tenant was intoxicated. Once the police were gone, this tenant pounded on the Tenant's door and wanted to fight the Tenant. The police were called again, and the other tenant fled when the police arrived. However, the police could not locate her, and they

eventually left. She stated that she informed the Landlord of this issue and the Landlord was concerned with this incident as well. She advised that she has had a problem with this other tenant since the tenancy started, that this other tenant is rude and belligerent, that this other tenant has made threatening texts, and that the police have told her to avoid the rental unit as it is not a safe environment to be in. As a result, she leaves the rental unit very early in the morning, and only returns in the late evening to sleep there at night. She submitted a police file number; however, other than this number, there has been no evidence submitted to accompany that would support the contents of that report or why the police attended. She stated that she is seeking compensation in the amount of **\$4,800.00**, which is equivalent to three month's rent, for her loss of having to live in these conditions.

T.C. advised that the other tenant had problems with the use of the laundry because the Tenant would do her laundry late at night and would do excessive loads. Sundays were this other tenant's designated day for laundry; however, she could not do it on May 3, 2020 because the Tenant was doing her laundry well into the night. The Landlords told the parties to stop fighting and tried to resolve the matter to ensure that they both could live peacefully together, but the police were involved instead. The Landlords settled the issue with the tenants by agreeing that the Tenant could do her laundry on Mondays.

T.C. stated that the tenants of the property have had many disagreements with each other since the start of the tenancy and that they aggressively fight with each other. On June 13, 2020, she advised that the other tenant turned her music up very loudly, and instead of advising them of the problem, the Tenant called the police instead. It is her position that both of the tenants are causing problems and the rental unit is not safe because of their actions. She stated that the other tenant has hearing loss so that partially explains why the music is so loud, but she has told this tenant to turn down her music. She stated that they have verbally talked to both tenants and she referred to the documentary evidence submitted to demonstrate that they have warned the Tenant in writing about the problems she is causing. She submitted that the police have advised them to evict both the tenants.

The Landlord confirmed that the Tenant had been causing problems due to the laundry being done so late at night. However, he confirmed that the other tenant had been causing problems by blasting her music. He stated that both tenants do not understand how to live peacefully with each other. He referred to text messages submitted as documentary evidence to demonstrate the Tenant's problematic behaviour.

## Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 27 of the *Act* pertains to the termination or restriction of services or facilities; however, the Tenant did not make submissions on whether this is a current issue. The consistent evidence appears to be that this laundry issue primarily occurred prior to March 2020 and the parties have resolved this now.

As such, I will turn the focus to the Tenant's claim for damages. When establishing if monetary compensation is warranted, I find it important to note that Policy Guideline # 16 outlines that when a party is claiming for compensation, "It is up to the party who is claiming compensation to provide evidence to establish that compensation is due", that "the party who suffered the damage or loss can prove the amount of or value of the damage or loss", and that "the value of the damage or loss is established by the evidence provided." The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred, and that it is up to the party claiming compensation to provide evidence to establish that compensation is warranted. In essence, to determine whether compensation is due, the following four-part test is applied:

- Did the Landlord fail to comply with the *Act*, regulation, or tenancy agreement?
- Did the loss or damage result from this non-compliance?
- Did the Tenant prove the amount of or value of the damage or loss?
- Did the Tenant act reasonably to minimize that damage or loss?

Regarding the Tenant's claim for compensation in the amount of \$4,800.00 for her alleged losses, while the Tenant has made submissions that the other tenant has caused the property to be unsafe to occupy, and has presented evidence that supports her position that this other tenant has threatened her, when reviewing the totality of the evidence before me, I do not find that this is an accurate portrayal of the situation. It is apparent to me that it is more likely than not that both tenants of the rental property have been having difficulty living together and have been antagonistic towards each other, instead of attempting to live in a shared property amicably. While I have little doubt that the other tenant is behaving in a manner that is detrimental to her tenancy, I find that the Tenant is likely also acting in a manner that is jeopardizing her tenancy as well.

Furthermore, I find it important to note that the Tenant indicated in her written submissions that she “would like to be compensated by having a rent reduction for the months coming so I can have funds to move. The COVID-19 health crisis has made moving a challenge.” Based on this statement, I do not find that the Tenant is legitimately seeking compensation for a loss that she suffered but is seeking compensation to help her move to a different rental unit. As I am satisfied that the Tenant is partially responsible for the discord between the tenants, I do not find that she is entitled to monetary compensation from the Landlord. Ultimately, I am not satisfied that the Tenant had sufficiently established her position and as a result, I dismiss her claims in their entirety.

As the Tenant was not successful in this Application, I find that she is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

Based on my findings above, I dismiss the Tenant’s Application in its entirety.

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 6, 2020

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Residential Tenancy Branch