



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      OLC, MNDCT, FFT

### Introduction

The tenants filed an Application for Dispute Resolution on August 31, 2020 seeking an order ensuring the landlord's compliance with the legislation and/or the tenancy agreement. On September 29, 2020 they amended the Application to apply for compensation for monetary loss or other money owed. They also seek reimbursement of the Application filing fee.

The matter proceeded by way of a hearing pursuant to section 74(2) of the *Residential Tenancy Act* (the "Act") on October 13, 2020.

In the conference call hearing I explained the process and offered each party the opportunity to ask questions. Both parties attended the hearing, and each was provided the opportunity to present oral testimony and make submissions during the hearing.

The landlord confirmed receipt of the Notice of Dispute Resolution, hand-delivered by the tenants. This included the evidence prepared by the tenants in advance of the hearing. In the hearing the landlord stated they did not prepare documentary evidence in advance.

### Preliminary Matter

The tenants advised the tenancy ended on September 1, 2020. That was the final move-out date for the tenants. The landlord confirmed this detail in the hearing. While they applied for an order that the landlord comply with the *Act*, the regulations and/or the tenancy agreement, their tenancy already ended by the date of this hearing. I advised the tenants in the hearing that such an application and any associated decision

would apply to a current tenancy going forward. I also advised the tenants that I am severing this issue from consideration, leaving the key issue to be the recompense of any monetary amounts they are eligible for.

### Issue(s) to be Decided

Are the tenants entitled to a monetary order for compensation for other money owed pursuant to section 67 of the *Act*?

Are the tenants entitled to recover the filing fee for this Application pursuant to section 72 of the *Act*?

### Background and Evidence

Neither the landlord nor the tenants provided a copy of the tenancy agreement in advance of the hearing; it was a verbal agreement. The whole basement suite was rented for \$1,500.00 with that amount divided among the number of people residing there. In June 2018 this was 3 people at the beginning of this tenancy; at the end of this tenancy in September 2020 there were 4 tenants in the unit. These tenants were two of the four living in the unit, with each of them paying \$375.00.

The tenants ended their tenancy by informing the landlord of this in August 2020. Their move-out date was September 1, 2020. They filed their Application on August 31, 2020 because the landlord mishandled their personal belongings.

On August 22, 2020 the landlord moved the belongings of the tenant out of their room and onto a floorspace and area outside of the room. This was to finish a resetting of the hardwood floors in that room. The tenant was out of town on that date, then returning on August 23 to find their personal items on the floor in bags and boxes. They provided photos of the area containing their personal items.

This left the tenants findings dirty personal items that required dry-cleaning. Additionally, they had difficulty finding items that were put into bags. In the hearing the tenants advised no items were damaged by this move. On their return, they “had an argument” with the landlord.

They stated there was no damage to personal items. There was “not anything ripped apart.” One jacket had dirty hand marks and had to get dry cleaned. One of the tenants stated this caused stress; for them, this is a pre-existing condition that increased since the incident here.

The landlord provided this was very short notice in advance of the work date. They were eager to accomplish the work with contractors who advised they could finish the task in one complete day – this was August 22. They stated the two other tenants assisted to move personal belongings out of these Applicants’ living space. In the hearing they reiterated that the tenants knew about this work.

When the landlord learned of the tenants asking about items needing to be cleaned, they asked the questions they deemed important right on the spot about cleaning for those personal items. They provided that they would pay for these cleaning costs right at that time. The landlord also stated in the hearing that they clarified there was no damage to any items, and nothing broken.

The tenants have claimed the amount of \$5,000.00. They stated everything from the bed “had to be dry-cleaned”. On their amended Application they stated this “has not only caused monetary loss but has caused a lot of stress and anxiety.” In the hearing the tenants claimed this amount represents “all laundry, dry-cleaning . . . mostly these things.”

### 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. Awards for compensation are provided in sections 7 and 67 of the *Act*.

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

The tenants here did not provide sufficient evidence for me to establish that a damage or loss exists. They did not present evidence that they had personal items dry-cleaned after this incident. I find the tenants having to look for and retrieve items from bags and boxes placed by the landlord here is not damage or loss that is eligible for reimbursement.

Further, the tenants have not established the value of their damage or loss. The amount they claim -- \$5,000.00 – is not quantified. That is to say, this amount is arbitrary, and does not reflect measurable damage. There is no reference to comparable claims for injury or infliction of mental distress; therefore, there is no base amount from which to gauge an amount of compensation. As such, the tenant has not established the value here.

One of the tenants stated they are “taking tablets” for the stress involved. This is not sufficient evidence to establish that the landlord must pay compensation to them.

In sum, the tenants have neither established that damage or loss exists, nor have they established the value thereof. Because they have not succeeded on their Application, I find they are not eligible to have the filing fee reimbursed.

### Conclusion

This Application from the tenants is dismissed in its entirety, without leave to re-apply.

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: October 14, 2020

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Residential Tenancy Branch