



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution (the Application) that was filed by the Tenant under the Residential Tenancy Act (the Act), seeking:

- Compensation for monetary loss or other money owed; and
- Recovery of the filing fee.

The hearing was convened by telephone conference call and was attended by the Tenant and the Landlord S.C. (the Landlord), both of whom provided affirmed testimony. The Landlord acknowledged service of the Tenant's Application and Notice of Hearing and both parties acknowledged receipt of each other's documentary evidence. Neither party raised concerns regarding service or timelines, as a result, I accepted all of the documentary evidence before me from the parties for consideration and the hearing proceeded as scheduled. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

Although I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Rules of Procedure, I refer only to the relevant and determinative facts, evidence and issues in this decision.

At the request of the parties, copies of the decision and any orders issued in their favor will be emailed to them at the email address provided in the Application.

### Issue(s) to be Decided

Is the Tenant entitled to compensation for monetary loss or other money owed?  
Is the Tenant entitled to recovery of the filing fee?

### Background and Evidence

The parties were in agreement that the provision of a dishwasher was included in the tenancy agreement and the payment of rent, which was set at \$1,300.00 per month. The parties were in agreement that the dishwasher stopped functioning in March of 2020, and that the Landlords were first notified of the broken dishwasher on March 22, 2020. The Landlord made no arguments that the Tenant was the cause of the dishwasher's lack of function or that the Tenant was responsible for repair or replacement costs.

Although the parties agreed that the dishwasher remained broken between March 22, 2020 and the date the tenancy ended, July 15, 2020, they disputed whether the Tenant was entitled to compensation for the loss of use of the dishwasher.

The Tenant stated that as a dishwasher was included in the cost of rent under their tenancy agreement, they are entitled to compensation for loss of use of the dishwasher between March 22, 2020 – July 15, 2020. The Tenant stated that in addition to the general inconvenience of not having a functioning dishwasher, they were required to purchase disposable containers and bags for their lunches, as they work in the healthcare field and were not able to bring reusable containers to work if they could not be washed in a dishwasher. The Tenant sought \$1,500.00 for the loss of use of the dishwasher, calculated as \$300.00 per month. In support of their position they submitted copies of correspondence with the Landlord regarding the dishwasher.

The Landlord stated that the Tenant should not be entitled to any compensation for loss of use of the dishwasher as they made reasonable attempts, albeit unsuccessful ones, to have it repaired under warranty by the manufacturer, replaced by the store that sold it, and repaired by a repair person. They submitted a self-authored timeline of events in support of this testimony. The Landlord stated that consideration should also be given to the fact that it was difficult to attend stores and enter the Tenant's rental unit safely given the pandemic and restrictions associated with COVID-19. Further to this, the Landlord argued that other rental units in the area with the same rent amount do not include a dishwasher and that the Tenant failed to pay 50% of the rent for several months, causing them great inconvenience, stress, and financial hardship.

### Analysis

Section 7 of the Act states that if a landlord or tenant does not comply with the Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must

compensate the other for damage or loss that results. It also states that a landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with the Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss. Further to this, Policy Guideline 12 sets out a four part test to be used in assessing if compensation is due.

Section 27(2) of the Act states that a landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord gives 30 days' written notice, in the approved form, of the termination or restriction, and reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility. As both parties agreed that a dishwasher was included in rent under the tenancy agreement and that the Tenant had no use of a dishwasher between March 22, 2020 – July 15, 2020, as it was broken due to no fault of the Tenant, I therefore find that the loss of the dishwasher constitutes a termination of a service or facility to be provided to the Tenant under the tenancy agreement.

Although the Landlord raised non-payment of rent as an issue, this matter has already been dealt with by an arbitrator with the Residential Tenancy Branch and the Landlords have already been granted a Monetary Order for the unpaid rent referred to by the Landlord in the hearing. As a result, I have not considered this issue further.

Although I am satisfied that the Landlord made some attempts to repair or replace the dishwasher, I find the efforts made insufficient as the dishwasher was still not repaired or replaced by the Landlords by the end of the tenancy on July 15, 2020, 86 days after the date the Landlords were first notified that the dishwasher was broken. I am therefore satisfied that the Landlords breached the tenancy agreement and section 27 of the Act by failing to repair or replace the dishwasher within a reasonable period of time after being first notified that it was broken on March 22, 2020

Although the Tenant stated that they incurred added expenses and inconvenience as a result of having to purchase disposable containers for their lunch, they submitted no documentary evidence to support their testimony that these items were either purchased or that they were unable to bring reusable containers to work without the use of a dishwasher at home. As a result, the Tenant has failed to satisfy me on a balance of probabilities that any such additional losses or inconveniences occurred.

While I acknowledge that the provision of a dishwasher was included in the cost of rent under the tenancy agreement, and find that the Landlord breached the tenancy

agreement and section 27 of the Act when they failed to have the dishwasher replaced or repaired within a reasonable period of time and did not compensate the Tenant for this devaluation of their tenancy, I am not satisfied by the Tenant that they suffered a \$300.00 per month loss as a result as they have claimed.

Rent was set at \$1,300.00 per month under the tenancy agreement and \$300.00 per month represents 23% of rent, which I find to be an unreasonable amount for the loss of a dishwasher, even taking the Tenant's personal and employment circumstances and the current pandemic into consideration, and given that the Tenant had full use and enjoyment of all other aspects of the rental unit during the relevant time period. There is also no documentary evidence before me to corroborate the Tenant's claims that they had to purchase disposable lunch containers as a result of the loss of the dishwasher or that they were incapable of washing dishes at all, even by hand, as a result of the loss of the dishwasher. While I appreciate that the loss of the dishwasher was not a trivial loss to the Tenant, I am satisfied that they were still capable of washing dishes during this period, albeit in a less desirable and inconvenient manner, and that they had full use and enjoyment of all other aspects of the rental unit. Finally, the Tenant's claim for a high amount of compensation for loss of use of a dishwasher appears to me to be an attempt to recoup losses incurred by them as a result of a Monetary Order granted to the Landlord in a previous hearing regarding unpaid rent during the same time period.

Despite the above, I am still satisfied that the Landlords breached the tenancy agreement and section 27 of the Act as set out above by failing to repair or replace the dishwasher within a reasonable period of time after being first notified that it was broken on March 22, 2020, and that the Tenant suffered a loss as a result. I am also satisfied that the Tenant acted reasonably to mitigate this loss by seeking repairs to or replacement of the dishwasher from the Landlords on numerous occasions. As I am satisfied of the above but not satisfied of the value of the loss claimed by the Tenant, I therefore award the Tenant nominal damages for the breach of the tenancy agreement and section 27 of the Act in the amount of \$75.00 pursuant to Policy Guideline 16.

Pursuant to section 72 of the Act, I also grant the Tenant recovery of the \$100.00 filing fee. Pursuant to section 67 of the Act, I therefore grant the Tenant a Monetary Order in the amount of \$175.00 and I order the Landlord to pay this amount to the Tenant.

### Conclusion

Pursuant to section 67 of the Act, I grant the Tenant a Monetary Order in the amount of **\$175.00**. The Tenant is provided with this Order in the above terms and the Landlord

must be served with this Order as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order 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 Act.

Dated: November 20, 2020

---

Residential Tenancy Branch