



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      MNDCT, MNRT, RPP, FFT

### Introduction

This hearing was scheduled to convene at 11:00 a.m. on November 24, 2020 by way of conference call concerning an application made by the tenant seeking a monetary order for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement; a monetary order for the cost of emergency repairs; an order that the landlord return the tenant's personal property; and to recover the filing fee from the landlord for the cost of the application.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call. The tenant testified that the landlord was served with the Application for Dispute Resolution, notice of this hearing and evidence (the Hearing Package) by registered mail on September 29, 2020 and has provided a Registered Domestic Customer Receipt and a Canada Post cash register receipt bearing that date and a tracking number and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

All evidence of the tenant has been reviewed and is considered in this Decision.

### Issue(s) to be Decided

- Has the tenant established a monetary claim as against the landlord for money owed or compensation for damage or loss under the *Residential Tenancy Act*, regulation or tenancy agreement, and more specifically for the payment of water bills, contrary to the tenancy agreement?
- Has the tenant established a monetary claim as against the landlord for the cost of emergency repairs?

- Has the tenant established that the landlord should be ordered to return the tenant's personal property, to wit: a fridge, washer and dryer?

### Background and Evidence

The tenant testified that this fixed-term tenancy began on February 1, 2014 and reverted to a month-to-month tenancy after February 1, 2016, which ultimately ended on September 19, 2020. Rent in the amount of \$2,200.00 was payable on the 5<sup>th</sup> day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$1,100.00 which was returned in full to the tenant, and no pet damage deposit had been collected. The rental unit is a single family dwelling, and a copy of the tenancy agreement has been provided as evidence for this hearing.

The tenant further testified that the tenancy agreement provides that water is included in the rent, however the parties had a disagreement about paying the water bill. The landlord travelled a lot and got behind paying the water bills and the tenant ended up paying double. In the spring of 2018 the landlord threatened to evict the tenant, so the tenant paid an additional \$100.00 per month from May, 2018 to February, 2020 and \$135.00 from March, 2020 to the end of the tenancy. Receipts and emails exchanged between the parties have been provided as evidence for this hearing.

The tenant purchased new appliances for the rental unit, which are still in the rental unit. They include a fridge, washer and dryer.

The tenant claims \$2,640.00 for water bill payments and return of appliances that the tenant purchased for the rental unit, or compensation for the appliances in the amount of \$600.00.

The house had been purchased by the landlord just prior to this tenancy and was in shambles. The tenant needed emergency housing for his family, and the tenant agreed to tear out carpets and flooring. The landlord paid for materials, and the tenant did the work. Also, siding had to be replaced; there were lots of damaged portions with holes in the walls to the exterior of the house. The electrical was old and faulty in the appliances, and wires melted and shorted out the dishwasher and the stove. The plumbing pipes were also old and the tenant had to pull out walls, patch and paint due to leaky pipes, and replaced some pipes. The tenant painted the entire house during the tenancy. The landlord allowed the tenant to move in 2 weeks early for doing the floors, plumbing, patching and painting, however for the next 6 years or more of the tenancy, the landlord left repairs to the tenant to complete. The landlord worked out of

town, and the tenant is a skilled tradesman. The landlord would ask for receipts for materials, but gave no compensation for the tenant's work, taking advantage of the tenant's skills. The tenant has also provided a written list/estimate of the work performed in the rental unit.

The tenant claims compensation in the amount of \$2,500.00 for work performed in the rental home during the tenancy.

### Analysis

Firstly, I have reviewed the tenancy agreement which is clear that water is included in the rent. The tenant has provided copies of emails exchanged between the parties and some receipts, indicating that some receipts were not provided by the landlord. I am satisfied that the tenant has established monetary claims amounting to **\$2,640.00** for water bills that the tenant was not required to pay.

With respect to the balance of the tenant's monetary claim, I accept the undisputed testimony of the tenant that the landlord left all repairs and modifications to the tenant to complete, likely because of the tenant's skill. The *Act* requires a landlord to repair and maintain a rental unit.

The *Act* specifies what emergency repairs are:

### Emergency repairs

**33** (1) In this section, "emergency repairs" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
  - (i) major leaks in pipes or the roof,
  - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
  - (iii) the primary heating system,
  - (iv) damaged or defective locks that give access to a rental unit,
  - (v) the electrical systems, or
  - (vi) in prescribed circumstances, a rental unit or residential property.

The *Act* also states that a tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to notify the landlord; and
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

Then the landlord must reimburse the tenant for amounts paid for emergency repairs if the tenant claims reimbursement with receipts. If the landlord does not reimburse the tenant, the tenant may deduct the amount from rent, or may otherwise recover the amount.

In this case, I am not satisfied that the tenant has established that some of the repairs made by the tenant qualify as emergency repairs. Although some may have been, the tenant has not provided any receipts to substantiate any amounts claimed by the tenant.

I also refer to Residential Tenancy Policy Guideline 16 – Compensation for Damage or Loss which states, in part:

“An arbitrator may award monetary compensation only as permitted by the Act or the common law. In situations where there has been damage or loss with respect to property, money or services, the value of the damage or loss is established by the evidence provided. An arbitrator may also award compensation in situations where establishing the value of the damage or loss is not as straightforward:

- “Nominal damages” are a minimal award. Nominal damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right.”

I accept the undisputed testimony of the tenant that numerous repairs were made by the tenant without compensation by the landlord. I have also reviewed the tenant’s list of repairs made, and I find that the tenant has established nominal damages of **\$500.00** for the landlord’s failure to maintain the rental unit.

I also accept the undisputed testimony of the tenant that he purchased a fridge, washer and dryer for the rental unit. Without any evidence to substantiate the amount, I order that the landlord return the appliances to the tenant forthwith.

Since the tenant has been partially successful with the application, the tenant is also entitled to recovery of the **\$100.00** filing fee.

Conclusion

For the reasons set out above, I hereby grant a monetary order in favour of the tenant as against the landlord pursuant to Section 67 of the *Residential Tenancy Act* in the amount of **\$3,240.00**.

I hereby order that the landlord return the fridge, washer and dryer to the tenant forthwith.

This order is final and binding and may be enforced.

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: November 30, 2020

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Residential Tenancy Branch