



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ARGUS INDUSTRIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDL, FFL

### Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Landlord on December 22, 2020 (the “Application”). The Landlord applied for compensation for damage to the rental unit and reimbursement for the filing fee.

The Agents for the Landlord and Tenant appeared at the hearing. I explained the hearing process to the parties who did not have questions when asked. I told the parties they were not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The parties provided affirmed testimony.

The Application originally named R.M. The parties agreed R.M. was not a tenant under the tenancy agreement and therefore I removed R.M. from the Application.

Both parties submitted evidence prior to the hearing. I addressed service of the hearing package and evidence and no issues arose.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all testimony provided and reviewed all documentary evidence submitted. I will only refer to the evidence I find relevant in this decision.

### Issues to be Decided

1. Is the Landlord entitled to compensation for damage to the rental unit?
2. Is the Landlord entitled to reimbursement for the filing fee?

### Background and Evidence

The Landlords sought \$792.41 to replace the stove in the rental unit which was damaged by a fire.

A written tenancy agreement was submitted as evidence and the parties agreed it is accurate, other than the notation that a pet damage deposit was paid. The tenancy started May 17, 2018.

The parties agreed the tenancy ended August 31, 2020.

Agent M.S. testified as follows. The Tenant agreed to the condition of the stove as operating at the start of the tenancy on the Condition Inspection Report (CIR). The stove was damaged May 24, 2020 by a fire that occurred while the Tenant was cooking. The stove was destroyed, could no longer be used and had to be replaced. The quote in evidence shows the value of the stove. The stove was around six years old.

T.M. testified as follows. The Tenant failed to live up to the tenancy agreement. The stove was damaged. The fire department removed the stove. Replacing the stove actually cost more than the original quote.

The Tenant testified as follows. The stove issue was not addressed when it happened. They were not given a quote for the stove until September 03, 2020. It then took the Landlord a month to put the stove in. They would have had financial coverage if the stove issue had been addressed when it happened. This was an emergency repair that the Landlord should be responsible for.

The Tenant confirmed that they were cooking, oil boiled over and this is what caused the fire. The Tenant testified that it was an accident.

M.S. testified that the stove issue was discussed with the Tenant when it was reported. M.S. testified that there was a delay in addressing the stove issue due to the pandemic. T.M. testified about a letter sent to the Tenant May 29, 2020 about the fire.

The Landlord submitted documentary evidence including a photo of the damaged stove, letters about the fire, a quote for a replacement stove and the CIR.

The Landlord submitted a letter to the Tenant dated May 29, 2020 which states in part:

...due to the damage to the stove, and the smoke damage to both the kitchen wall and ceiling, which directly resulted from the incident, we will be following up with a formal letter regarding the amount which you, the Tenant, will be responsible to remit to the Landlord for completing the repairs. This letter will follow once remediation in the unit has been completed.

The Tenant submitted a Statutory Declaration which states in part:

My actions, on the date of May 24<sup>th</sup>, 2020, were to cook a family meal...There were no irresponsible actions on my part in cooking any of these items. It was an unavoidable accident that, without cause, the deep fryer oil bubbled over onto the stove and onto the coil burner.

### Analysis

Section 7 of the *Act* states:

7 (1) If a...tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying...tenant must compensate the [landlord] for damage or loss that results.

(2) A landlord...who claims compensation for damage or loss that results from the [tenant's] non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

Policy Guideline 16 deals with compensation for damage or loss and states in part the following:

It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and

- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

Pursuant to rule 6.6 of the Rules, it is the Landlord as applicant who has the onus to prove the claim. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

Section 32 of the *Act* states:

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

There is no issue that a fire occurred on the stove in the rental unit on May 24, 2020 while the Tenant was cooking as the parties agreed on this.

I am satisfied based on the evidence provided that the Tenant's actions caused the fire as the Tenant was cooking and acknowledged that oil boiled over onto the burner causing the fire. I accept that the Tenant did not intentionally set a fire on the stove, there is no suggestion that the Tenant did. However, I am satisfied it was both the Tenant's actions and negligence that caused the fire. It was the Tenant's action of cooking that caused the fire. Further, it was oil boiling over onto the burner that caused the fire. Oil boiling over onto the burner is not a natural part of, or consequence of, safe cooking. Allowing oil to boil over onto the burner is negligent. I also note that the fire was not caused by anything the Landlord did. Nor was the fire caused by a defect in the stove.

There is no issue that the stove was damaged from the fire and this is clear from the photo submitted. Based on the testimony provided, as well as the photo, I am satisfied the stove had to be replaced.

I find the Tenant was responsible for the cost of replacing the stove pursuant to section 32 of the *Act* given the damage to the stove was caused by the Tenant.

I accept based on the May 29, 2020 letter that the Tenant was made aware that they would be responsible for the cost of the damage to the stove and do not accept the Tenant's position that they only learned of this in September. Further, I do not find it relevant when the Tenant was made aware that they would be responsible for the cost of the damage to the stove. Pursuant to section 32 of the *Act*, the Tenant was

responsible for the cost of the damage to the stove and I do not accept that the passage of time somehow diminished this responsibility or relieved the Tenant of this responsibility.

There is no issue that the Tenant has not paid for the cost of the damage to the stove. I find the Tenant has breached section 32 of the *Act*.

As stated, I am satisfied the stove had to be replaced. I accept based on the quote submitted that the cost to replace the stove was estimated to be \$792.41 and I find this amount reasonable.

I am satisfied the Landlord is entitled to compensation for the cost associated with replacing the stove due to the fire caused by the Tenant. However, I am not satisfied the Landlord is entitled to \$792.41 being the cost of a brand new stove given the stove in the rental unit was six years old at the time of the fire. Policy Guideline 40 addresses the useful life of appliances and states that the useful life of a stove is 15 years. Therefore, I award the Landlord \$475.00 which accounts for the six years of use the Landlord got out of the stove in the rental unit.

Given the Landlord was successful in the Application, I award the Landlord \$100.00 as reimbursement for the filing fee pursuant to section 72(1) of the *Act*.

In total, the Tenant owes the Landlord \$575.00 and I issue the Landlord a Monetary Order in this amount pursuant to section 67 of the *Act*.

### Conclusion

The Tenant owes the Landlord \$575.00 and I issue the Landlord a Monetary Order in this amount. This Order must be served on the Tenant and, if the Tenant does not comply with the Order, it may be filed in the Provincial Court (Small Claims) 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: May 03, 2021

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Residential Tenancy Branch