



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT

### Introduction

On February 9, 2021, the Tenants applied for dispute resolution under the *Residential Tenancy Act* (“the Act”), seeking money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement.

The matter was scheduled as a teleconference hearing. The Landlords and Tenants were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The evidence was reviewed and confirmed received by each party. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

The Tenant testified that he served a copy of the Notice of Dispute Resolution Proceeding and his documentary evidence to the Landlords by placing them in separate envelopes and leaving them in the Landlords mailbox on February 20, 2021. The Landlord confirmed that he received the Notice of Dispute Resolution Proceeding but denied ever receiving a separate envelope containing documentary evidence.

The majority of the Tenants’ evidence consists of a copy of the tenancy agreement, a copy of the Tenants letter regarding the end of tenancy, and photographs of the interior of the rental unit. The Landlord confirmed that he is aware of this documentation and

confirmed the photographs are of the rental unit. I find that there is no prejudice to the Landlord for me to consider those documents.

The Landlord Mr. E.D. testified that he did not serve a copy of his documentary evidence to the Tenants because when he knocked on the Tenants' door there was no answer. He stated that he decided to not leave the evidence because it would be unfair.

I find that the Landlords failed to serve a copy of their 283 pages of documentary evidence to the Tenants. Other than the tenancy agreement, and a copy of the tenants letter, it would be unfair for me to consider evidence from the Landlord that the Tenants are not aware of and did not have an opportunity to respond to. The Landlords' documentary evidence is excluded from the hearing.

#### Issue to be Decided

- Are the Tenants entitled to money owed or compensation for damage or loss under the Act, Regulation, or tenancy agreement?

#### Background and Evidence

The Landlords and Tenants testified that the tenancy began in July 2020 as a one-year fixed term tenancy to end June 30, 2021. Rent in the amount of \$1,050.00 was due on the first day of each month. A security deposit of \$525.00 was paid by the Tenants to the Landlord.

The tenancy ended prior to the end of the fixed term agreement when the Tenants moved out of the rental unit on January 10, 2021.

#### Compensation for Moving

The Tenants are seeking \$10,000.00 for stress, gas costs, and expenses related to moving out of the rental unit.

The Tenant stated that the Landlord told them to move out. The Tenant stated that the Landlord never actually issued a notice to end tenancy and the Tenant never went to dispute resolution seeking to resolve any disputes with the Landlord.

In reply, the Landlord Mr. E.D. stated that there were many verbal arguments related to numerous package deliveries for the Tenant that were being delivered to the Landlords

door. The Landlord stated that the Tenant was rude to his father and threatened his father when discussing tenancy issues. The Landlord stated that the Tenant stated it is best if he found a new place to move to.

The Landlord offered to end the tenancy without penalty and a mutual agreement to end tenancy was signed by the Landlord and Tenants with an effective date of December 15, 2020. The Landlord stated that it was the Tenant's choice to end the tenancy early.

The Landlord stated that the Tenant did apply for dispute resolution regarding a dispute surrounding package delivery and the Landlord's entry into the unit; however, the Tenant failed to attend the hearing and the application was dismissed.

The Landlord stated that when the Tenant failed to move out of the rental unit on December 15, 2020 in accordance with the mutual agreement, the Landlord applied for dispute resolution seeking an order of possession for the rental unit. When the Tenants moved out of the unit on January 10, 2021, the Landlord withdrew the application for an order of possession.

In reply, the Tenant stated that dealing with Mr. E.D. was different from dealing with the other Landlord who told him to move out.

The Tenant provided testimony confirming that he signed a mutual agreement to end tenancy and that he informed the Landlord that he found a place to move to. He stated that he could not leave the rental unit by December 15, 2020 because his parents got covid.

#### Compensation for Pain and Suffering

The Tenants are seeking \$25,000.00 for stress, and pain and suffering for having to move.

The Tenant stated that he wants compensation for stress. He stated that his wife suffered post partum depression. He stated that his wife's health is important, so he is seeking \$25,000.00.

The Tenant also stated that he could not work because he needed to find a house.

The Landlord replied that the Tenant was always home, and he is not sure that the Tenant worked.

## Analysis

Residential Tenancy Branch Policy Guideline 16 provides the following information with respect to types of damages that may be awarded to parties:

*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. 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.*

Based on the above, the testimony and evidence of the Landlords and Tenants, and on a balance of probabilities, I find as follows:

The parties agreed to end the tenancy by mutual agreement. The Landlord did not issue a notice to end tenancy to the Tenants and the Tenants were not under any obligation to move out of the rental unit.

The Tenants had previously applied for dispute resolution but abandoned their application. There was no hearing before an Arbitrator and no determination made that the Landlords breached the Act. I find insufficient evidence from the Tenants that the Landlord breached a provision of the Act.

I find that since the tenancy ended by agreement and since Landlord has not breached the Act, the Tenants are not entitled to compensation for damage or loss resulting from any breach.

In addition, there was insufficient proof from the Tenants to prove the value of their loss. I find that the Tenants claim for compensation of \$35,000.00 to be grossly inflated and borderline frivolous in that it has no sound basis.

Accordingly, I dismiss the Tenant's application for money owed or compensation for damage or loss in its entirety.

Conclusion

The Tenant's application is dismissed in its entirety without leave to reapply.

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: June 23, 2021

---

Residential Tenancy Branch