



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ASCENT REAL ESTATE MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

- a monetary order for compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- authorization to recover their filing fee for this application from the landlord pursuant to section 72.

The tenant, M.D.L.V.E. (the tenant) attended the hearing via conference call and provided undisputed affirmed testimony. The landlord did not attend or submit any documentary evidence. The tenant, M.S.D. did not attend.

The tenant was advised that the conference call hearing was scheduled for 60 minutes and pursuant to the Rules of Procedure, Rule 6.11 Recordings Prohibited that recording of this call is prohibited.

The tenant stated that the landlord was served with the notice of hearing package and the submitted documentary evidence via Canada Post Registered Mail on March 13, 2021. The tenant stated that she submitted a copy of the envelope with the Canada Post Tracking number and label as confirmation. The tenant also stated that an online search of the Canada Post Website tracking history shows that the package was delivered on March 16, 2021. I accept the undisputed affirmed evidence of the tenant and find that the landlord despite not attending or submitting any evidence is deemed served as per section 90 of the Act on March 16, 2021.

### Issue(s) to be Decided

Are the tenants entitled to a monetary order for compensation and recovery of the filing fee?

### Background and Evidence

While I have turned my mind to all the documentary evidence, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the applicant's claim and my findings are set out below.

The tenant stated the rental unit was a 1 bedroom rental which included a living room/dining room, a kitchen, a bathroom and 1 bedroom. The tenant stated that the living room/dining room area consists of approximately 50% of the rental space. The tenant provided numerous interac records showing that the monthly rent paid was \$1,076.00 near the end of the tenancy.

The tenants seek a monetary claim of \$6,814.00 which consists of:

\$6,714.00	Compensation, Loss of Use/ Loss of Quiet Enjoyment
\$1,614.00	lack of heat, 3 months (50% of monthly rent)
\$1,100.00	non-working doorbell, 14 months
	10 missed students @ \$60/hr =\$600.00
	trips to pick up packages \$50X10
	hours=\$500.00
\$3,000.00	trips to grocery store, 60X \$50/hr
\$1,000.00	Stress, living in poor conditions and dealing with landlord
\$100.00	Filing Fee

The tenant seeks a monetary claim for loss of use of part of the rental unit (the living room) and for loss of quiet enjoyment. The tenants stated that in 2018 a new management company took over and neglected repair issues. The tenants stated that the new management ignored their emails or responded with abusive and impolite emails.

The tenant provided the following details concerning their tenancy.

On August 12, 2019 the fridge stopped working and the landlord's agent was notified. The tenants stated that the fridge was replaced with a smaller one. The tenants stated

that they attempted to contact the landlord via email but was ignored for months. When the tenant notified the landlord that they would file an application for dispute the landlord threatened the tenants via email. The tenants stated that the smaller fridge affected their lives significantly as the tenants primarily cook at home and they were not able to fit the weekly groceries in the fridge and were forced to make at least 2 grocery trips per week. The tenants stated that this became a bigger issue when the tenant gave birth to a baby in May 2020 as it significantly impacted the tenants' ability to store milk for the baby. The tenant provided evidence that the freezer was so small it could not accommodate a container of ice cream. The tenant stated as a result she was not able to have a milk bank for her baby.

At the end of 2019 the doorbell began having issues and it then stopped working. The landlord was notified multiple times and the tenants did not receive a response to address this issue. One of the tenants provide private music lessons from home and not having a working doorbell affected these lessons. The tenants stated that over the course of 14 months the tenants suffered a loss of 10 appointments due to the student being unable to contact the tenants. The tenants also missed several deliveries causing the tenants to have to go pick up packages in another city. The tenants stated that she spent 10 hours driving to pick up the undeliverable packages. The tenant stated that her spouse charges \$50.00 per hour for lessons and as a result of the missed appointments suffered a loss of income of \$600.00. The tenant stated that her salary works out to \$50.00 per hour and that as such she had to leave work to get the packages.

In October 2020 the landlord was requested to repair a heating issue via email notification, but no responses were made by the landlord. The tenant stated that there was no heat in the living room. The tenant stated that only after threatening to conduct emergency repairs themselves as there was no heat the landlord sent a repairman to inspect the property on December 1, 2020 but no repairs were made. The tenants argued that their only issue was having no heat in the living room as this constituted 50% of the rental space. The tenants attempted to have the heating repaired themselves by calling a plumber on December 19, 2020, but the plumber was denied access to the boiler room by the landlord as the landlord was waiting for a part replacement. During the hearing the tenant stated that the landlord had notified them that they were actually waiting for a service bid to repair the heat to be approved by the landlord/owners. The tenant stated that they were misinformed by the landlord.

The tenant stated that due to the landlord's communication practices none the reported issues were dealt with in a professional or timely manner. The tenant has submitted in

support of these claims copies of email communications between the two parties showing the tenant's attempts to resolve these issues and what if any actions made by the landlord. The tenant has stated that compensation of \$1,614.00 for the loss of use of the living room as it makes up approximately 50% of the rental space that was lost due to having no heat in this room for the 3 month period between October and December 2020. The tenant stated that the \$1,100.00 claim for compensation is based upon the tenant's direct testimony that 10 music lessons were lost over a 14 month period at \$50.00 per session; and the tenant spent approximately 10 hours total driving to pick up packages that could not be delivered to them as Canada Post was not able to use the doorbell to notify the tenants that they were present. The tenant stated that this was despite a note at the door requesting the delivery person to call the tenant. The tenant's request for compensation of \$3,000.00 was based upon 60 hours spent on extra trips to shop for groceries due to the smaller fridge provided by the landlord to replace the broken one. The tenant stated that this was based upon her hourly wage at \$50.00 per hour. The tenant provided details on the \$1,000.00 compensation request due to the stress caused by the landlord's neglect and abusive email responses to the tenant's requests. The tenant stated that \$100.00 per month over the 10 month period "feels right" for the compensation they are owed.

### Analysis

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage.

I accept the undisputed affirmed evidence of the tenant and find that a claim has been established for compensation. The tenant has provided undisputed evidence that the a loss of heat occurred in the living room which caused them to suffer the loss of use/enjoyment of this part of the rental unit for the period October to December 2020. Having no heat in a living space is not a trivial thing and would directly impact and cause a loss of enjoyment of this part of the rental unit. This type of issue is considered an emergency repair that was not properly addressed. I accept the tenant's evidence that this was equal to 50% of the rental space as such grant the tenants' request for

compensation of \$1,614.00 which is equal to 50% of the monthly rent for this 3 month period.

On the tenants' remaining claims, I find that while providing sufficient evidence to satisfy me that there was a broken doorbell; fridge replaced with a smaller one; and frustration and anxiety caused by the landlord in failing to properly respond to the tenants issues, the tenants have failed to establish a claim for compensation. I note that no monetary details have been provided in support of the tenants claims for loss of funds (earnings) resulting from the broken doorbell causing the loss of music lessons; having to drive and pick up numerous packages; making frequent trips to the store to purchase groceries; and for stress and anxiety caused by the landlord to the tenants. The tenant failed to provide any supporting evidence in the form of any records regarding the number of trips to pick up packages; details of any losses for music lessons and the number of trips for grocery shopping. However, in this case, I find that an arbitrary nominal award is appropriate as the tenants have provided sufficient evidence to satisfy me that the landlord was negligent in their actions. As such, I grant the tenants a arbitrary nominal monetary award of \$3,200.00.

The tenants are entitled to recovery of the \$100.00 filing fee.

### Conclusion

The tenants are granted a monetary order for \$4,914.00.

This order must be served upon the landlord. Should the landlord fail to comply with this order, the 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 *Residential Tenancy Act*.

Dated: July 21, 2021

---

Residential Tenancy Branch