



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes**      **RR, MNDCT, RPP, OLC, RP**

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant filed under the *Residential Tenancy Act* (the “Act”) to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided, for a monetary order for compensation for monetary loss or other money owed, I want the landlord to return my personal property, to have the landlord comply with the Act, and to have the landlord make repairs to the property.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions at the hearing.

The tenant confirmed they did not submit any evidence in support of their application. The landlord stated they served the tenant in person, which was witness and video taped. The tenant denied this. While I do not necessarily believe the tenant; however, the landlord’s evidence is minimal and would support damages caused by the tenant, which is not an issue for me to determine at the hearing. The only relevant evidence is the tenancy agreement to which I will allowed to be considered.

At the outset of the hearing the parties agreed that the tenant has vacated the rental unit. Therefore, I find the only issue for me to determine is if the tenant was entitled to a retroactive rent reduction and a monetary claim. The balance of the tenant’s application dismissed without leave as the tenancy has ended.

### **Issue(s) to be Decided**

Is the tenant entitled to a retroactive rent reduction?

Is the tenant entitled to a monetary order for loss or other money owed?

### Background and Evidence

The tenancy began on June 1, 2020. Rent in the amount of \$1,500.00 was payable on the first of each month. A security deposit of \$750.00 was paid by the tenant. The rent was reduced to \$1,450.00.

The tenant testified that they are seeking \$200.00 per month since the tenancy began because the baseboard heater were not working and also as of June 2021 the hot tub has not worked. The tenant stated they also want \$100 per month for yard care and lawn maintenance as this was to be provided by the landlord; however, they did the work for the duration of their tenancy. The tenant seeks to recover the total amount of \$4,500.00.

The landlord testified that there was nothing wrong with the baseboard heaters as the electrical was inspected in 2019 and they also provided plugged in heaters. The landlord stated that the hot tub was new in 2019 and is still under warranty. The landlord stated the tenant never informed them of any problems during the tenancy. The landlord stated that they found after the tenant had vacated that the tenant disposed of garbage in the hot tub.

The landlord testified that at the start of the tenancy the tenant was asked if they wanted the landlord to maintain the yard and the tenant stated they would do it.

### Analysis

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

In a claim for damage or loss under the Act or tenancy agreement, the party claiming for the damage or loss has the burden of proof to establish their claim on the civil standard, that is, a balance of probabilities. In this case, the tenant has the burden of proof to prove their claim.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

Section 7(1) of the Act states that if a landlord or tenant does not comply with the Act, regulation or tenancy agreement, the non-comply landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act provides me with the authority to determine the amount of compensation, if any, and to order the non-complying party to pay that compensation.

I find the tenant has present no evidence to support their claim. If the baseboards were unusable for their entire tenancy, I would at the very least expect to see communication with the landlord on this issue. The tenant has presented no evidence that the hot tub was not working as of June 2021, I would at the very least expect to see communication with the landlord on this issue. The landlord cannot be held responsible to make a repair if they were never notified by the tenant that a problem existed. Therefore, I dismiss this portion of the tenant's claim.

I am not satisfied that yard maintenance was the responsibility of the landlord as this is not listed in the original tenancy agreement. Further, if this was an issue during the tenancy I would expect to see communication with the landlord on this issue. The tenant has provided no supporting evidence. Therefore, I dismiss the tenant's this portion of the tenant's claim.

Based on the above, I find it appropriate to dismiss the entire application without leave to reapply due to insufficient evidence.

### Conclusion

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: October 11, 2022

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Residential Tenancy Branch