



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

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

### **Introduction**

This hearing dealt with an application by the landlord/tenant pursuant to the Residential Tenancy Act (“Act”) for orders as follows:

- for a monetary order for damage or compensation pursuant to section 67 of the Act
- for an order to reduce rent for repairs, services, or facilities agreed upon but not provided pursuant to section 65 of the Act
- for an order requiring the landlord to make repairs to the property pursuant to section 32 of the Act
- for an order requiring the landlord to comply with the Act, regulations or tenancy agreement pursuant to section 62 of the Act

Landlords JH and JR appeared. Tenant MP and witness FS appeared. All parties were given a full opportunity to be heard, to present testimony, to make submissions, and to call witnesses.

The hearing was conducted by conference call. The parties were reminded to not record the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The tenant acknowledged receiving the landlords’ evidence package. Pursuant to section 88 of the Act I find that the tenant was properly served.

### **Preliminary Issues**

Landlord JH advised that her name was spelled incorrectly on the dispute application. Based on section 64(3)(c) of the Act I have amended the application to reflect the correct spelling.

The landlords testified that they received three evidence packages from the tenant on March 23, March 25, and March 27, 2023. All of the applicant tenant's materials were received by the landlords within 14 days prior to the hearing. RTB Rules of Procedure Rule 3.14 requires the applicant to serve the respondent with their evidence not later than 14 days prior to the hearing. I decline to consider the evidence submitted by the tenant that was served less than 14 days prior to the hearing.

During the hearing the tenant advised that she was vacating the rental unit as of April 3, 2023. Therefore I dismiss the tenant's application for repairs to the rental property and for an order requiring the landlords to comply with the Act, regulations, or tenancy agreement.

#### Issue(s) to be Decided

1. Is the tenant entitled to a monetary order for compensation?
2. Is the tenant entitled to a rent reduction due to the landlord's failure to make repairs or provide facilities or services agreed upon but not provided?

#### Background and Evidence

The tenancy commenced August 1, 2022 on a month to month basis. Rent of \$1,350.00 per month due on the first of the month. The landlord holds a security deposit of \$675.00. The tenant vacated the rental unit April 3, 2023.

The tenant stated that the heating in the rental unit was inadequate, and she suffers from health problems, so she required more heat. The landlord gave her a space heater to use. At the end of October 2022 the landlord asked the tenant to return the space heater. The landlord then supplied a smaller heater which the tenant alleged was inadequate to heat the space. The landlord then asked the tenant to return the second smaller space heater and when the tenant refused the landlord attempted to physically remove the space heater from the rental unit. The tenant prevented the landlord from removing the space heater, the police were called and ultimately the tenant returned the space heater to the landlord. Utilities were included with the rental unit.

The tenant then purchased her own space heater. The tenant stated that the space heater was causing the breakers to trip in the rental unit and she was concerned about a fire hazard. The tenant is claiming compensation for the space heater that she purchased and which she stated cost \$100.00.

The tenant also alleged that the shower door was inadequate and that the toilet was constantly running. She stated that the running toilet bothered her conscience because of the wasted water. The tenant acknowledged that water is included in her rent. The tenant stated that the oven was not working, however she also stated that she would not allow the landlord to repair it because she believed it to be a safety hazard.

The tenant is seeking a rent reduction of \$350.00 per month for the entire period of her tenancy due to the various issues she outlined with respect to the rental unit and she is also seeking compensation for the purchase of the space heater.

The landlord did not dispute providing the tenant with the space heater but stated it was only provided on a temporary basis and was not meant to become part of the tenancy agreement. The landlord stated that the heating in the rental unit is central heating and is set to 70 degrees Fahrenheit for the entire rental property. The landlord stated that the reason the tenant's rental unit was cold was because the tenant kept the windows open which cooled down the rental unit. The rental unit then took time to reheat.

The landlord stated that the toilet in the rental unit is new and is a self flushing toilet that runs on occasion to keep the bowl clean. The landlord further testified that the tenant was not allowing access to the rental unit to allow the landlord to assess whether repairs needed to be made.

The tenant admitted to opening the windows to the rental unit but only in the summer and when cleaning.

### 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. As noted in Policy Guideline #16, 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. In this case, the onus is on the tenant to prove their entitlement to a claim for a monetary award.

I find that the tenant is not entitled to a rent reduction and compensation for the following reasons:

- The landlord provided heat on a central heating system set to an adequate temperature for all the rental units. The tenant may have wished the rental unit to be warmer, and she was entitled to purchase a space heater to heat the rental unit to a temperature that was comfortable for her. The tenant advised that utilities were included with the rental unit and therefore I find that she was not required to pay extra to heat the rental unit. The tenant has not established that a violation of the Act or tenancy agreement resulted in damage or loss of the tenant.
- It is undisputed that the tenant opened the windows to the rental unit on occasion. The tenant was entitled to open the windows, however the landlord is not responsible for the subsequent loss of heat in the rental unit.
- The tenant purchased the space heater and is entitled to keep the space heater. The tenant is not entitled to be compensated for an asset that she purchased and is her own property. The tenant has not established how the purchase of the space heater was a violation by the landlord of the Act or tenancy agreement that resulted in a loss to the tenant.
- The tenant has not established how the shower door and running toilet resulted in damage or loss to the tenant due to a violation of the Act or tenancy agreement by the landlord. There is no loss. The toilet was there at the beginning of the tenancy.

The tenant's application is dismissed in its entirety.

### Conclusion

The tenant's application is dismissed 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: April 11, 2023

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Residential Tenancy Branch