



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      MNETC, FFT

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution filed under the *Residential Tenancy Act* (the "*Act*") made on August 14, 2022. The Tenant applied for a monetary order for compensation under the *Act*, and to recover the filing fee paid for the application. The matter was set for a conference call.

The Tenant and a support person (the "Tenant") as well as the Landlord and a support person (the "Landlord") attended the hearing and were each affirmed to be truthful in their testimony. Both parties were provided with the opportunity to present their evidence orally and in written and documentary form and to make submissions at the hearing. The parties testified that they exchanged the documentary evidence that I have before me.

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

### Issues to be Decided

- Is the Tenant entitled to a monetary order for money owed or loss under the *Act*?
- Is the Tenant entitled to the return of their filing fee?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement recorded that the tenancy began on February 1, 2021. The parties agreed that the monthly rent for this unit was set at \$761.00 per month, due on the first day of each month. The parties agreed that the Tenant paid the Landlord a \$375.00 security deposit at the beginning of the tenancy. The Tenant submitted a copy of the tenancy agreement into documentary evidence.

Both the Landlord and Tenant agreed that the Tenant gave notice to end their tenancy effective on July 31, 2022, during a meeting between the tenant and the Landlord that took place on June 11, 2022. The parties also agreed that when then the Tenant was out of town between July 4 to 14, 2022, the Landlord started renovations to the rental unit that involved the removal of the flooring, and the toilet in the rental unit, as well as painting and.

The Tenant acknowledged that they had moved most of their things out of the rental unit before leaving town for a few days but that they were very surprised to come home to find their unit in the middle of renovations. The Tenant submitted ten photographs of the rental unit into documentary evidence.

The Landlord submitted that they had posted a notice to the door of the rental unit on July 6, 2022, to notify the Tenant that they would be starting renovations the next day on July 7, 2022. The Landlord testified that they had been under the understanding that a landlord could renovate a rental unit as long as they gave notice and that the Tenant had mostly moved out so they did not think it would be a problem.

### Analysis

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

The Tenant has applied for the recovery of their rent for July 2022, in the amount of \$761.00.

I accept the agreed-upon testimony of these parties, supported by the documentary evidence, that the Landlord started renovations to the rental unit on July 7, 2023, 25 days before the date this tenancy was set to end.

I accept the testimony of the Tenant, supported by their documentary evidence, that the renovations started by the Landlord were extensive, and that these renovations made the rental unit uninhabitable between July 7 to July 31, 2022. Section 27 of the *Act* states the following regarding terminating or restricting a service or facility during a tenancy:

*Terminating or restricting services or facilities*

*27 (1) A landlord must not terminate or restrict a service or facility if*

- (a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or*
- (b) providing the service or facility is a material term of the tenancy agreement.*

I find that the Landlord breached section 27(1) when started renovations in this rental unit to the extent that the rental unit became uninhabitable by the Tenant between July 7 to July 31, 2022.

As the rental unit was uninhabitable during this time, I find that the Landlord was not entitled to the payment of rent for this period. Consequently, I award the Tenant the recovery of their rent paid in the amount of \$613.50, between July 7 to July 31, 2022, a total of 25 days, at the per diem rate of 24.54 to the Tenant.

Finally, section 72 of the *Act* gives me the authority to order the repayment of a fee for an application for dispute resolution. As the Tenant has been successful in their application, I find that the Tenant is entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I grant the Tenant a Monetary Order in the amount of \$713.50. The Tenant is provided with this Order in the above terms, and the Landlord must be served with this Order as soon as possible. Should the Landlord fail to comply with this Order, this 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: May 9, 2023

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Residential Tenancy Branch