



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes MNRT, MNDCT, RR, OLC, FFT

Introduction

This hearing occurred by conference call based on an Application for Dispute Resolution filed by the Tenant (the “Application”). This matter came before me March 14, 2023, and was adjourned. An Interim Decision was issued March 15, 2023. This matter came before me again April 14, 2023, and was adjourned. An Interim Decision was issued April 17, 2023. This Decision should be read with the Interim Decisions.

The Tenant proceeded with the following claims:

- For compensation for monetary loss or other money owed
- To be paid back for the cost of emergency repairs
- To recover the filing fee

At the third hearing, the Tenant appeared with Legal Counsel. The Tenant called H.H.Z. as a witness at the hearing. Nobody appeared at the third hearing for the Landlords.

I note that Landlord G.P. said they were in the hospital the day of the second hearing and needed an adjournment. Landlord G.P. was ordered to submit documentary evidence that they were in the hospital as claimed. Landlord G.P. did not submit documentary evidence as ordered. I also note that the date and time of the third hearing was agreed to by the parties at the second hearing.

The Tenant provided evidence for the hearing. The Landlords did not provide evidence. I confirmed service at the third hearing. The Tenant and Legal Counsel confirmed the Landlords were served with all materials by registered mail sent to their addresses on the Application. The Tenant provided documentary evidence of service showing materials were sent March 21, 2023.

In relation to Landlord G.P., the documentary evidence of service shows they received the materials March 23, 2023. Landlord G.P. was at the second hearing and confirmed receipt of the materials. Landlord G.P. knew the hearing date and time for the third hearing. Landlord G.P. has been sufficiently served in accordance with sections 88(c) and 89(1)(c) of the *Residential Tenancy Act* (the "Act"). Landlord G.P. received the materials in time to appear at the second hearing. I find Landlord G.P. received the materials in sufficient time to prepare for, and appear at, the third hearing.

In relation to Landlord R.P., I find they were served the materials in accordance with sections 88(c) and 89(1)(c) of the *Act*. Under section 90(a) of the *Act*, Landlord R.P. is deemed to have received the materials March 26, 2023. I find Landlord R.P. was served in sufficient time to prepare for, and appear at, the second and third hearings.

In relation to Landlord S.P., I find they were served the materials in accordance with sections 88(c) and 89(1)(c) of the *Act*. Under section 90(a) of the *Act*, Landlord S.P. is deemed to have received the materials March 26, 2023. I find Landlord S.P. was served in sufficient time to prepare for, and appear at, the second and third hearings.

Given I was satisfied of service, I continued with the hearing without the Landlords present. The Tenant and Legal Counsel were given an opportunity to provide relevant evidence and submissions. I have considered all evidence provided. I will only refer to the evidence I find relevant in this decision.

The Tenant and Legal Counsel provided file numbers for prior RTB files between the parties which are noted on the front page of this Decision. I have reviewed the prior files to determine whether they impact this Decision.

Issues to be Decided

1. Is the Tenant entitled to compensation for monetary loss or other money owed?
2. Is the Tenant entitled to be paid back for the cost of emergency repairs?
3. Is the Tenant entitled to recover the filing fee?

Background and Evidence

The Tenant sought the following compensation:

Item	Description	Amount
1	Criminal harassment	\$14,300.00
2	Wi-Fi since December 2021	\$825.00
3	Utilities overcharge	\$450.00
4	Emergency repairs	\$373.17
5	Two months lost work	\$4,610.00
6	Difference in wages lost	\$3,285.00
7	Loss of quiet enjoyment	\$10,000.00
8	Filing fee	\$100.00
	TOTAL	\$33,943.17

The Tenant testified as follows. The Tenant had a written tenancy agreement with Landlord G.P. The tenancy started June 01, 2021, and was a month-to-month tenancy. Rent was \$1,300.00 due on the first day of each month. The Tenant paid a \$650.00 security deposit and \$850.00 pet damage deposit.

The Tenant testified that they moved out of the rental unit March 01, 2023.

The Tenant, Legal Counsel and H.H.Z. provided the following testimony and submissions.

#1 Criminal harassment***#5 Two months lost work******#6 Difference in wages lost******#7 Loss of quiet enjoyment***

Landlord G.P. criminally harassed the Tenant during the tenancy which caused the Tenant a loss of quiet enjoyment. Landlord G.P. lived above the rental unit. The harassment started immediately. Landlord G.P. would bang, yell and play loud music to harass the Tenant. The digital evidence provided shows the harassment. Landlord G.P. also sent the Tenant threatening text messages which have been provided.

The Tenant called police about the text messages sent by Landlord G.P. Police attended and spoke to Landlord G.P. who lied and said the text messages were not from them. Police told the Tenant to keep a record of the issues with Landlord G.P.

On March 17, 2022, Landlord G.P. sent the Tenant 62 text messages in two hours. The text messages included threats that Landlord G.P. would kill the Tenant's dog. Landlord G.P. then entered the rental unit and the Tenant called police. Police attended and arrested Landlord G.P. Landlord G.P. was charged with criminal harassment against the Tenant and plead guilty to this charge in March 2023.

There was a disturbing pattern of harassment by Landlord G.P. from the start of the tenancy until they were arrested March 17, 2022. Landlord G.P. knew the Tenant had PTSD from previous work and viciously took advantage of this by threatening the Tenant's family and pets.

After being arrested, Landlord G.P. had a court order not to attend the rental unit address and not to have contact with the Tenant or H.H.Z. Landlord G.P. breached the court order multiple times. Landlord G.P.'s family participated in Landlord G.P. breaching the court order. For example, Landlord G.P. and their family hosted a wedding at the rental unit address in 2022. The Tenant called police multiple times due to breaches of the court order by Landlord G.P.

Landlord G.P. tried to evict the Tenant; however, the Tenant successfully disputed the eviction.

The criminal harassment by Landlord G.P. resulted in the Tenant having to take time off work from March to June of 2022. The Tenant feared that Landlord G.P. would come into the rental unit and harm their dog or belongings if the Tenant was not there. The Tenant ended up changing jobs, which resulted in a lower wage, so that they could take their dog to work and not leave it at the rental unit alone.

Landlord G.P. breached the Tenant's right to quiet enjoyment. Landlord G.P. breached the Tenant's right to privacy and safety. Landlord G.P. substantially interfered with the Tenant's enjoyment of the rental unit and property. The Tenant is seeking rent back for the time Landlord G.P. lived upstairs and harassed the Tenant. The Tenant is seeking compensation for damage to their mental health for the period when Landlord G.P. had a court order not to attend the rental unit address but continued to do so. The Tenant is seeking compensation for the time they had to take off work due to Landlord G.P.'s

harassment. The Tenant is seeking compensation for having to change jobs so their dog was not left alone in the rental unit due to Landlord G.P.'s threats.

The Tenant further testified as follows about the impact Landlord G.P.'s harassment had on them. Landlord G.P.'s unprovoked harassment robbed the Tenant of their peace, comfort and sense of safety. Landlord G.P.'s actions were cruel and abusive. Landlord G.P. sent the Tenant harassing text messages, caused noise disturbances, overcharged for utilities and failed to do repairs in the rental unit. Landlord G.P. was ordered by the RTB to stop their behaviour; however, the abuse escalated and became more personal, frequent and violent. Landlord G.P. threatened to cut the Tenant's dog's throat. Landlord G.P. threatened the personal safety of H.H.Z. and a friend of the Tenant. Landlord G.P. shouted threats and slurs through the Tenant's door. Landlord G.P. attacked the Tenant's intelligence, gender, sexuality, body shape, economic status, family and friends. After Landlord G.P. was ordered not to attend the rental unit address, they continued to attend and the Tenant could hear them upstairs. Landlords R.P. and S.P. would ask the Tenant not to call police when Landlord G.P. breached the order not to attend the rental unit address. The Tenant lived in constant fear and could not sleep. When the Tenant did sleep, they were woken up by Landlord G.P. shouting or banging. Landlord G.P.'s actions permeated every aspect of the Tenant's life.

The Tenant's mother, H.H.Z., testified as follows. H.H.Z. stayed over at the rental unit once a week. H.H.Z. witnessed some of the harassment of the Tenant by Landlord G.P. During the night, Landlord G.P. would cause noise disturbances by banging, swearing and slamming into the Tenant's door. H.H.Z. would not be able to sleep out of fear of Landlord G.P. causing further noise disturbances. Landlord G.P.'s actions affected the Tenant and H.H.Z. to the point where they could not relax in the rental unit. H.H.Z. did not realize the affect of Landlord G.P.'s actions until the Tenant moved and the Tenant and H.H.Z. could actually breathe when in the Tenant's home.

#2 Wi-Fi since December 2021

The tenancy agreement included wi-fi. Landlord G.P. provided wi-fi until December of 2021, but then denied the Tenant access to it. The Tenant communicated with Landlord R.P. about access to wi-fi but ended up having to purchase their own. The Tenant provided a bill showing their wi-fi was \$65.00 per month. The Tenant is seeking compensation for the 15 months they did not have access to wi-fi.

#3 Utilities overcharge

The Tenant overpaid for utilities because Landlord G.P. included a second residence on the bills and the Tenant paid 50% of the bills. The Tenant ended up paying for utilities used at another residence.

#4 Emergency repairs

The Tenant paid \$373.17 for emergency repairs to a toilet during the tenancy. The invoice for repairs is in evidence. Landlord G.P. was ordered to repair the toilet in an RTB Decision issued February 17, 2022; however, Landlord G.P. did not comply with the order. The problem with the toilet got worse and the Tenant had to have the toilet repaired. The Landlords breached their obligations to maintain the property.

Evidence

The Tenant provided the following documentary and digital evidence:

- Wi-fi bill
- Utilities text messages with Landlord G.P.
- Toilet repair invoice
- Pay stubs
- Harassing and threatening text messages from Landlord G.P.
- Doctor's note about PTSD
- Text with Landlord R.P. about wi-fi
- Prior RTB Decisions
- CSO charges against Landlord G.P.
- Landlord G.P.'s Probation Order from March 14, 2023
- Two Month Notice to End Tenancy dated June 29, 2022
- Video and audio recordings

Analysis

#1 Criminal harassment

#5 Two months lost work

#6 Difference in wages lost

#7 Loss of quiet enjoyment

The Tenant had a right to quiet enjoyment of the rental unit and property under section 28 of the *Act*. RTB Policy Guideline 6 explains the Tenant's right to quiet enjoyment.

Section 7 of the *Act* sets out when compensation should be awarded. RTB Policy Guideline 16 ("PG 16") sets out a four-part test regarding compensation and states:

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.

PG 16 confirms damage or loss includes physical and mental damage to a person. PG 16 also states that arbitrators can award aggravated damages and explains:

"Aggravated damages" are for intangible damage or loss. Aggravated damages may be awarded in situations where the wronged party cannot be fully compensated by an award for damage or loss with respect to property, money or services. Aggravated damages may be awarded in situations where significant damage or loss has been caused either deliberately or through negligence. Aggravated damages are rarely awarded and must specifically be asked for in the application.

In the RTB Decision issued February 17, 2022 (file ending 662), the following order was made in relation to Landlord G.P.:

The Landlord sends the Tenant abusive, harassing and threatening text messages, sometimes in the middle of the night. Pursuant to section 62(3) of the Act, I order the Landlord to comply with section 28 of the Act and to respect the Tenant's right to quiet enjoyment which includes the right not to be verbally abused, harassed or threatened in person or by text message. The right to quiet enjoyment also includes the right not to be disturbed outside of reasonable hours other than for an emergency...

The Landlord is intentionally causing noise disturbances consistently late at night and early in the morning and thus breaching the Tenant's right to quiet enjoyment. Pursuant to section 62(3) of the Act, I order the Landlord to comply with section 28 of the Act and to respect the Tenant's right to quiet enjoyment which includes the right not to be disturbed by unreasonable noise during the day or night.

I accept the Tenant's undisputed testimony about the Landlords' actions during this tenancy. The evidence shows Landlord G.P. sent abusive and threatening text messages to the Tenant. The statements made and language used in the text messages is cruel and disturbing. The videos and audios show Landlord G.P. caused egregious noise disturbances which included banging, thumping, yelling, howling, loud music, Landlord G.P. yelling about the Tenant, Landlord G.P. calling the Tenant names and Landlord G.P. yelling about ruining the Tenant's life. The noise disturbances sound intentional given their nature. The yelling about the Tenant, calling the Tenant names and yelling about ruining the Tenant's life was obviously intentional. The evidence shows the noise disturbances were ongoing. The testimony of H.H.Z. confirms the noise disturbances were ongoing. Landlord G.P. breached section 28 of the Act and the Tenant's right to quiet enjoyment.

I accept the undisputed testimony of the Tenant that Landlord G.P.'s breach of section 28 of the Act caused the Tenant damage and loss. The testimony of H.H.Z. confirms this. The documentary evidence supports this.

I accept the amount or value of the damage and loss is as claimed by the Tenant. The Landlords did not appear at the hearing to dispute this. The Tenant provided a logical basis for the amounts sought and evidence to support the basis. The Application and

materials clearly set out what the Tenant is seeking and I consider the Tenant to be seeking aggravated damages. The actions of Landlord G.P. are so egregious that aggravated damages are justified in this matter. Landlord G.P.'s actions are particularly egregious because Landlord G.P. was ordered by the RTB to comply with section 28 of the *Act* but continued their behaviour and escalated their actions to the point of being arrested and charged criminally.

The Tenant mitigated their loss by seeking remedies through the RTB.

The Tenant is entitled to the amounts sought for loss of quiet enjoyment of the rental unit and property for the duration of the tenancy.

#2 Wi-Fi since December 2021

Section 7 of the *Act* and PG 16 apply to this claim.

In the RTB file ending 662, the Tenant sought a rent reduction in part based on not having access to wi-fi as required by the tenancy agreement. The Tenant was granted a rent reduction on February 17, 2022, in part for the wi-fi issue. The Tenant cannot seek compensation for this same issue for the same period. The Tenant can seek compensation for loss of wi-fi from February 17, 2022, to March 01, 2023, when the Tenant moved out of the rental unit.

I accept the undisputed testimony of the Tenant that wi-fi was included in the tenancy agreement and that they lost access to it during the tenancy. The text message to Landlord R.P. and wi-fi bill supports this. The Landlords breached the tenancy agreement by not providing wi-fi as required.

I accept the undisputed testimony of the Tenant that they had to get their own wi-fi and pay for this. The Tenant provided evidence of this showing wi-fi cost them \$55.00 per month.

I accept the Tenant mitigated their loss by reaching out to Landlord R.P. about wi-fi as shown in the text message provided and by seeking remedies through the RTB previously.

The Tenant is entitled to \$55.00 per month from February 17, 2022, to March 01, 2023, being 13 months. The Tenant is entitled to \$715.00.

#3 Utilities overcharge

Section 7 of the *Act* and PG 16 apply to this claim.

I accept the undisputed testimony of the Tenant that the Landlords overcharged for utilities during the tenancy, which is a breach of the tenancy agreement. I accept the undisputed testimony of the Tenant that the amount charged over what they owed was \$450.00. The Tenant is entitled to compensation for this.

#4 Emergency repairs

Section 7 of the *Act* and PG 16 apply to this claim.

The Landlords were required to maintain the rental unit and property during the tenancy under section 32 of the *Act*. This included repairing the toilet. Landlord G.P. was ordered to repair the toilet in the RTB Decision issued February 17, 2022. I accept the undisputed testimony of the Tenant that the Landlords did not repair the toilet and find they breached section 32 of the *Act* and the RTB order.

I accept the undisputed testimony of the Tenant that they had to have the toilet repaired and that this cost \$373.17. This is supported by the invoice provided.

The Tenant mitigated their loss by seeking remedy for this issue through the RTB.

The Tenant is entitled to the \$373.17 paid for repairing the toilet.

Filing fee

The Tenant is entitled to recover the \$100.00 filing fee under section 72(1) of the *Act* because they have been successful in the Application.

Summary

The Tenant is entitled to the following:

Item	Description	Amount
1	Criminal harassment	\$14,300.00
2	Wi-Fi since December 2021	\$715.00

3	Utilities overcharge	\$450.00
4	Emergency repairs	\$373.17
5	Two months lost work	\$4,610.00
6	Difference in wages lost	\$3,285.00
7	Loss of quiet enjoyment	\$10,000.00
8	Filing fee	\$100.00
	TOTAL	\$33,833.17

The Tenant is issued a Monetary Order in the above amount under section 67 of the *Act*.

Conclusion

The Tenant is awarded \$33,833.17 and is issued a Monetary Order in this amount. This Order must be served on the Landlords. If the Landlords fail to comply with this Order, it 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 *Act*.

Dated: May 25, 2023

Residential Tenancy Branch