



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNR-MT, MNRT, MNDCT, RR, RP, PSF, LRE, OLC, FFT

### Introduction

Pursuant to section 58 of the *Residential Tenancy Act* (the Act), I was designated to hear an application regarding a residential tenancy dispute. The tenant applied on December 2, 2022 for:

- an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities, requesting more time to dispute the Notice;
- recovery of costs for emergency repairs made during the tenancy;
- compensation for monetary loss or other money owed;
- a rent reduction for repairs, services, or facilities agreed upon but not provided;
- repairs made to the unit or property, having contacted the landlord in writing;
- an order for the landlord to provide services or facilities required by the tenancy agreement or law;
- an order to suspend or set conditions on the landlord's right to enter the rental unit or site;
- an order for the landlord to comply with the Act, Regulation, or tenancy agreement; and
- recovery of the filing fee.

Those present were given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses; they were made aware of Residential Tenancy Branch Rule of Procedure 6.11 prohibiting recording dispute resolution hearings.

The landlord testified they had received the tenant's hearing materials, but that some pages were missing. As the tenant did not present evidence demonstrating what evidence he served on the landlord, pursuant to Rule 3, I have not considered in my decision documents the landlord advised during the hearing they did not receive, as noted in the decision.

The tenant did not raise an issue regarding service of the landlord's responsive evidence. The landlord testified that the Canada Post website indicated that neither tenant had picked up the landlord's evidence, which was sent by registered mail. I advised the landlord that having checked the provided proof of service I accepted the landlord's evidence. The tracking numbers are recorded on the cover page of this decision.

### Preliminary Matters

As it was settled in a prior decision, as noted on the cover page of this decision, I dismiss without leave to reapply the tenant's application for an order cancelling a 10 Day Notice to End Tenancy for Unpaid Rent or Utilities.

As the tenant testified the following claims are duplicates of others in this dispute, or have been resolved, I dismiss without leave to reapply the tenant's claims for:

- a rent reduction for repairs, services, or facilities agree upon but not provided;
- repairs made to the unit or property, having contacted the landlord in writing;
- an order for the landlord to provided services or facilities required by the tenancy agreement or law; and
- an order to suspend or set conditions on the landlord's right to enter the rental unit or site.

The tenant has made an application to recover the costs for emergency repairs made during the tenancy, seeking \$536.00 for laundry services. As this is not an example of an emergency repair, and the tenant's application for compensation for monetary loss or other money owed references "expenses of laundry outside of unit," I find the \$536.00 sought by the tenant for laundry services is already contemplated by his \$17,000.00 compensation claim. Therefore, I dismiss without leave to reapply the tenant's claim to recover costs for emergency repairs made during the tenancy.

### Issues to be Decided

- 1) Is the tenant entitled to compensation in the amount of \$17,000.00?
- 2) Is the tenant entitled to an order for the landlord to comply with the Act, Regulation, or tenancy agreement?
- 3) Is the tenant entitled to the filing fee?

### Background and Evidence

While I have considered the presented documentary evidence and the testimony of the parties, not all details of their submissions and arguments are reproduced here. The relevant and important aspects of the parties' claims and my findings are set out below.

The parties agreed that the tenancy began June 1, 2021 and rent is \$4,000.00, due on the first of the month.

#### *Monetary claim*

The tenant submitted that he seeks \$17,000.00 in compensation because the dryer was unusable for months, which was inconvenient, required the tenant to send out his laundry, and resulted in the tenant having to replace sheet and clothing. The tenant submitted that the handle of his fridge door was broken for most of the tenancy, rendering the fridge unusable, the kitchen unusable, and requiring the tenant to have food delivered.

The tenant referred me to a text string from page 34 of his evidence, which the landlord stated they did not receive, so I asked the tenant to describe the document. The tenant referred to a text message to the landlord, dated November 15, 2022, in which the tenant told the landlord the dryer needs service, has for months, and that the tenant brought it up at the first inspection. The tenant asked the landlord to fix the dryer as soon as possible. The tenant also asked in the text if the landlord's latest inspection gave the landlord the necessary information to fix the fridge, and when would that occur. Submitted as evidence by the landlord is the November 15 text exchange, which supports the tenant's testimony. In the text, the landlord replied, asking for further details so as to know who to call to get the dryer fixed, and stated that this is the first time the tenant has mentioned a problem with the dryer. In the same exchange, the landlord asks the tenant for the broken fridge handle so another can be purchased, and the tenant told the landlord the landlord's agent took the handle many months ago.

The tenant testified that the landlord was aware of the broken fridge door handle for many months prior to November 2022, and that there were many back and forth communications between the tenant and the landlord regarding repairs, and that the landlord frequently did not respond. Submitted as evidence by the landlord is an email with the subject line including: "Fridge door missing November 5, 2021," stating that per an attached photo, visible in the email, the fridge door handle was missing in the November 5, 2021 photo.

The tenant referenced another text, which I could not locate, but the landlord confirmed they had received, in which the tenant wrote to the landlord that the fridge had not been fixed for a year, despite the landlord having had six people visit the unit. This text is submitted as evidence by the landlord, and is dated Tuesday November 22. On the

same date, the landlord told the tenant to tell a worker, who will visit the unit on Friday for another purpose, about the dryer issue so he can have it fixed.

On November 27 the landlord texted the tenant, telling him the landlord will arrange for the dryer repair, and that he will send someone the next day for the serial and model numbers, explaining that the company will require the information in order to schedule a repair visit. The text is submitted as evidence.

The tenant seeks \$536.00 for using external laundry services twice, and submitted in support one receipt for \$187.69, dated December 1, 2022.

The landlord testified that the dryer malfunctioned as a result of the tenant failing to empty it of lint, and referred me to a work report in evidence, dated December 7, 2022. In it the technician states they found excess lint buildup on the filters and heat exchanger, and that one of the filters was missing. The technician wrote that he advised the customer to clean the filters more often, and that if the customer cannot find the missing filter they will buy a new one.

The tenant testified that he cleaned the dryer vent, and that tools are required to access one of the panels referenced by the repair technician.

The tenant testified that he had to order food delivery, and submitted as evidence an email he had written, with the subject line "Food Nov '21 – Dec '22," containing a column of numbers totalling \$2,841.33. Also submitted are phone screenshots of restaurant orders.

The landlord testified that he had tried opening the fridge himself, and found it was not difficult to open the fridge with two fingers, without using the handle.

The tenant later testified that despite the fridge door handle being broken, he had been able to use the fridge, but that after a day or so of opening it without the handle it was not that pleasant.

The landlord provided extensive testimony explaining difficulties they encountered in fixing the fridge handle, including the part not being available from the appliance company. The landlord submitted that the tenant informed the landlord's lawyer in May 2022 that the fridge handle was broken. Submitted in support is an email, dated May 12, 2022, in which the lawyer asks the tenant to provide the serial number of the fridge, because the landlord wants a technician from the company to visit to fix it. The landlord submitted the tenant did not provide the serial number. The tenant testified that he tried to find the serial number but was unable to, and that about eight of the landlord's employees, over five or six visits, also could not find it. Submitted as evidence is an invoice dated May 28, 2022, stating that the fridge door handle needs a parts check with the appliance maker. A handwritten note submitted as evidence states that the handle

was repaired in May 2022 but came off again, and that the broken handle was requested of the tenant who did not respond.

In an October 23, 2022 email submitted as evidence, the landlord's realtor states that the handle was broken by the tenant, however no evidence was presented to support that the damage was the fault of the tenant.

Submitted as evidence by the landlord is an invoice dated December 10, 2022, stating that the fridge handle has been fixed.

The tenant testified that the fridge and dryer have now been fixed.

*Claim for landlord to comply*

The tenant testified he seeks for the landlord to protect his right to quiet enjoyment of the unit, in compliance with the tenancy agreement and section 28 of the Act. The tenant referred to "global issues" and multiple real estate showings which began within the first month or two of the tenancy. The tenant testified that the showings occurred on the weekends, which are his only time to be at home and enjoy the unit. The tenant testified that he tolerated the showings for a while, then told the landlord there should be no further showings "for a while." The tenant testified that the landlord did not respond, then would give a day or two notice for showings, and lied to the tenant, giving notice for an inspection, which was actually a potential buyer viewing the unit. The tenant testified that he had asked for the landlord to work with him to come to a reasonable showing schedule, but the landlord did not respond.

The landlord's realtor testified they had been hired by the landlord to list the unit for October to December, 2021 and January to June, 2022. The realtor testified that the tenant was given written notices as legally required before showings, and that on average over the two periods, the realtor conducted less than one showing a week, typically on the weekend. The realtor testified they communicated with the tenant in writing, did not do an excessive number of showings, and that, as typical, interest tapered in November 2021, resulting in few showings.

## Analysis

### *Monetary claim*

The tenant seeks monetary compensation in the amount of \$17,000.00.

Section 7 of the Act includes:

**7** (1) If a landlord or tenant does not comply with this Act, the regulations or their tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

Section 67 of the Act and [Policy Guideline 16](#) provide that if damage or loss results from a party not complying with the Act, the regulations, or a tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

Policy Guideline 16 includes:

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; and
- the party who suffered the damage or loss can prove the amount of or value of the damage or loss.
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

The tenant testified that he seeks to recover \$536.00 he spent sending laundry out when the landlord failed to repair the dryer within a reasonable amount of time. The tenant submitted a receipt for \$187.69 in support. The tenant testified that the dryer was unusable for months, though he had told the landlord about the issue during the first inspection and again on November 15, 2022.

The landlord testified that the dryer malfunctioned because the tenant failed to empty it of lint, and referred me to a work report in evidence, dated December 7, 2022, in which

the technician stated they found a lot of lint buildup, that one of the filters was missing, that he advised the tenant to clean the filters more often.

The tenant testified that he had cleaned the dryer vent, and that tools were required to access one of the areas referenced by the technician.

Based on the foregoing evidence from the parties, I find on a balance of probabilities that the tenant failed to remove sufficient lint from the dryer, causing it to malfunction. I favour the landlord's evidence as it is documentary evidence from a third-party expert.

Section 32(3) of the Act states that a tenant of a rental unit must repair damage to the rental unit caused by the actions or neglect of the tenant.

As the damage to the dryer was caused by the tenant, it was up to him to repair it. And if the landlord was too slow in making the requested repair, the tenant could and should have taken the initiative to arrange for a repair person to fix it.

I find the tenant is not entitled to compensation because the dryer ceased to function.

The tenant submitted he seeks compensation because the handle of his fridge door was broken for most of the tenancy, rendering the fridge unusable, the kitchen unusable, and requiring the tenant to have food delivered.

The tenant testified that the fridge door handle was broken from at least the beginning of November 2021 until it was fixed in December 2022. Submitted in support is an email from the landlord's realtor, including a photo from November 2021, stating that when the kitchen was photographed in November 2021, the handle was missing. Also submitted is an invoice dated December 2022, stating that the handle was fixed.

The landlord testified they were not sure how long the fridge handle was broken for, noting that the repair was delayed as there was a long wait to get the required part from the appliance company, and that the tenant was still able to easily open the fridge without the handle.

The tenant later testified that despite the handle being broken, he had been able to use the fridge, but that after a day or so of opening it without the handle it was not that pleasant.

Section 32(1) of the Act states that a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and

housing standards required by law, and having regard to the age, character, and location of the rental unit, makes it suitable for occupation by a tenant.

Considering that the parties agree that the tenant was able to use the fridge, and that this is a high-end rental, with rent at \$4,000.00 a month, considering section 32(1) I find the tenant is entitled to a nominal award in the amount of \$400.00 because the fridge handle was broken for an extended period.

*Claim for landlord to comply*

The tenant seeks an order for the landlord to comply with the Act, Regulation, or tenancy agreement.

The tenant testified he seeks for the landlord to protect his right to quiet enjoyment of the unit, in compliance with the tenancy agreement and section 28 of the Act. The tenant testified his enjoyment of the property was affected by “global issues” and multiple real estate showings which began at the start of the tenancy. The tenant testified that the showings occurred on the weekends, which is his only time to enjoy the unit. The tenant testified that the landlord had ignored his requests to come to a reasonable showing schedule.

The landlord’s realtor testified the unit was listed October to December, 2021 and January to June, 2022, the tenant was given written notices before showings, and that on average over the two periods, the realtor conducted less than one showing a week. The realtor agreed that the showings were typically on the weekend. The realtor testified they communicated with the tenant in writing, and did not do an excessive number of showings.

The parties did not clarify whether the unit has sold, or if the showings will continue, and neither party gave testimony on the number of showings done in a week when showings were frequent.

As the tenancy agreement and section 28 of the Act states that a tenant is entitled to quiet enjoyment, the tenant is granted an order for the landlord to comply with the Act, Regulation, or tenancy agreement. Should the landlord fail to protect the tenant’s quiet enjoyment, the tenant is at liberty to apply for future relief under the Act.

Pursuant to section 62(3) of the Act, I order the landlord to take all reasonable measures to comply with the Act, the Regulation, and the tenancy agreement, including section 28 of the Act.



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 had some success in their application, I order the landlord to pay the \$100.00 filing fee the tenant paid to apply for dispute resolution.

The tenant is entitled to a monetary award of \$500.00, comprising the nominal award of \$400.00 and the filing fee of \$100.00.

Pursuant to section 72 of the Act, the tenant is authorized to make a one-time deduction of \$500.00 from a future rent payment in satisfaction of the above-noted award.

### Conclusion

I authorize the tenant to make a one-time deduction of \$500.00 from a future rent payment in satisfaction of their monetary award.

I order the landlord to take all reasonable measures to comply with the Act, the Regulation, and the tenancy agreement, including section 28 of the Act.

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 11, 2023

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Residential Tenancy Branch