



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on August 10, 2023. The Tenant applied for the following remedies, pursuant to the *Residential Tenancy Act* (the *Act*):

- a monetary order for compensation for damage or loss under the *Act*, regulation or tenancy agreement, pursuant to section 67.

The Landlord, and agents, and the Tenant attended the hearing and provided affirmed testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other's evidence. No service issues were raised.

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 compensation for money owed or damage or loss under the *Act*?

### Background and Evidence

The Tenants stated that they are looking for \$35,000.00 in compensation because she was bullied and harassed and ultimately injured herself on the deck stairs at the rental property. The Tenant explained the background of her contentious relationship with the Landlord's property manager and other Tenant's in the building, and feels she was mistreated. The Tenant pointed to an incident, but did not indicate when exactly it occurred, where she fell through a stair on the wooden deck stairs, which is a main point of access to the rental unit.

The Tenant stated that she broke a bone in her ankle, and provided some medical documentation to support she sustained an injury of some sort. The Tenant stated that she lost work, and is now seeking some compensation for the injury she sustained.

The Landlord's counsel made a variety of arguments, and asserted that the property has been properly maintained, and the Landlord fulfilled his obligations to repair and maintain the property, under section 32 of the Act. The Landlord also suggested that the Tenant may have injured herself elsewhere, and opined that the medical evidence presented by the Tenant does not support that her injury was actually caused by her fall at the rental property. The Landlord asserts that this was a freak accident, when the deck stair gave out, and it was not evident in any inspections they conducted before.

### Analysis

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

A party that makes an application for monetary compensation against another party has the burden to prove their claim. The burden of proof is based on the balance of probabilities. Awards for compensation are provided in sections 7 and 67 of the *Act*. Accordingly, an applicant must prove the following:

1. That the other party violated the *Act*, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss.

In this instance, the burden of proof is on the Tenant to prove the existence of the damage/loss and that it stemmed directly from a violation of the *Act*, regulation, or tenancy agreement on the part of the Landlord. The Tenant must also provide evidence that can verify the value of the loss or damage. Finally it must be proven that the Tenant did everything possible to minimize the damage or losses that were incurred.

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.

After reviewing the totality of the evidence, and testimony before me, I am mindful that the Tenant is asking for a substantial amount of money and she has not provided any monetary order worksheet, or any breakdown as to how and why she should be entitled to \$35,000.00. The Tenant did not speak to the value of her loss, or how the amount was calculated during the hearing.

After looking at the totality of the evidence before me, I find the Tenant has failed to sufficiently demonstrate the value of her loss, given the complete lack of explanation as to how she came up with the amount noted on this application, \$35,000.00. Ultimately, the Tenant has failed to substantiate her claim and I find the Tenant has not provided sufficient evidence to meet the burden of proof. As such, her claim is dismissed in full, without leave to reapply.

### Conclusion

The Tenant's application is dismissed, in full, 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: August 22, 2023

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Residential Tenancy Branch