



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes MNR, FF

### Introduction

This matter dealt with an application by the tenant to obtain a Monetary Order for money owed or compensation for loss or damage under the *Residential Tenancy Act (Act)*, regulations or tenancy agreement, and to recover the filing fee for this application.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was sent by registered mail to the landlord on February 10, 2011. The landlord was deemed to be served the hearing documents on February 15, 2011, the fifth day after they were mailed as per section 90(a) of the *Act*.

Both parties appeared, gave affirmed testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly affirmed evidence presented at the hearing I have determined:

### Issue(s) to be Decided

- Is the tenant entitled to a Monetary Order for compensation for money owed or damage or loss?

### Background and Evidence

The tenant testifies that both she and the landlord signed a tenancy agreement on October 24, 2010 for her and her children to move into the rental unit on December 01, 2010 for a monthly rent of \$1,800.00. The tenant testifies she had a verbal agreement with the landlord that she could move in prior to this date. The tenant states she packed her belongings and was ready to

move in when the landlord appeared at her place of work on November 19, 2010 to tell her she could not move into the unit as the landlord had to move back there with her children.

The tenant states this news was extremely upsetting to her as she was faced with nowhere to live with her children. The tenant testifies that she had sold her washer and dryer as she thought she was moving into the landlords unit and was now also left without these appliances. The tenant states after the landlord gave her this news the landlord did go to her bank but was unable to raise any money for the tenant so the landlord then offered her accommodation to live with the landlord and her children at the rental house; however the tenant declined this as she did not want to share her home with the landlord and her family. The tenant testifies the landlord did offer her her spare washer and dryer but as she had nowhere to live at that time she had to decline that offer. The tenant states the landlord also offered to store the tenants' belongings in a bedroom at her house however the tenant states she was moving out of her unit and her belongings would not have fitted in a bedroom so she also declined this offer.

The tenant is seeking the equivalent of one months' rent of \$1,800.00 in compensation for the landlord not fulfilling the tenancy agreement and seeks an additional \$500.00 for the loss of her washer and dryer, for lost tips at work due to the distressed state she was left in after the landlord broke the news to her and for the stress and inconvenience of having to find alternative accommodation at short notice. The tenant states she was finally able to find another rental unit at the same rent but with an additional \$250.00 for utilities.

The landlord testifies that she did not want to cause this stress and inconvenience to the tenant but due to a domestic issue in her own living accommodation with her boyfriend she was advised by the police to move back to her own home immediately. The landlord testifies that she did offer the tenant \$2,000.00 in compensation but was unable to raise this sort of money at the bank and did not have any money in order to compensate the tenant. The landlord testifies she did offer the tenant her spare washer and dryer, to share her home with the tenant and her children until the tenant could find alternative accommodation and the use of a bedroom in her home to store the tenants' belongings.

### Analysis

I have carefully considered all the evidence before me, including the affirmed evidence of both parties. I find that the tenant and landlord did sign a tenancy agreement and as such entered into an agreement for the rental of this unit. Section 7 of the *Act* states:

#### **Liability for not complying with this Act or a tenancy agreement**

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.

(2) A landlord or tenant who claims compensation for damage or loss that results from the other's non-compliance with this Act, the regulations or their tenancy agreement must do whatever is reasonable to minimize the damage or loss.

In this matter I find the landlord the landlord did not purposefully act in a negligent manner when she failed to fulfill her obligation to rent the unit to the tenant however, the tenant was left in a situation that meant she had to find alternative accommodation at very short notice and suffered a financial loss as the new unit she had to rent is at a higher costs of approximately \$250.00 more per month than the landlord's unit. I also find the tenant was left in a stressful situation through no fault of her own and it is my decision that the tenant is entitled to claim compensation from the landlord for the breach of this tenancy agreement.

With regards to what steps the tenant took to mitigate her loss in this matter, the landlord argues that she offered the tenant money but was unable to get any, she argues she offered the tenant her washer and dryer, she offered the tenant accommodation in her own and she offered the tenant storage in her home. The tenant argues that she was never offered money in compensation; she declined the offer of the washer and dryer as at that time she had nowhere to live and put a washer or dryer, and she declined the landlord's offer of sharing her home and storage. I find in this matter that the tenant did not have to take up any of the landlord's offers. While I agree these offers were made with all sincerity a tenant should not have to share her home with strangers and her belongings would not fit into a bedroom for storage.

Consequently, I have reviewed the tenants claim for compensation and it is my decision that she has established her claim for compensation of \$1,800.00 as this would be the sum the tenant would have been entitled to if the landlord issued her with a Two Month Notice to End Tenancy for the landlords' use of the property. I also find the tenant suffered unreasonable stress by finding herself and her children with nowhere to live at short notice. I also find she suffered a financial loss because she sold her own washer and dryer thinking she would be moving into the rental unit and incurred additional monthly charges for her new rental unit; therefore, I find the tenant is also entitled to recover \$500.00 from the landlord. A Monetary Order has been issued to the tenant for the sum of **\$2,300.00** pursuant to s. 67 of the Act.

As the tenant has been successful in this matter she is also entitled to recover her **\$50.00** filing fee from the landlord pursuant to s. 72(1) of the *Act*.

#### Conclusion

I HEREBY FIND in favor of the tenants monetary claim. A copy of the landlord's decision will be accompanied by a Monetary Order for **\$2,350.00**. The order must be served on the respondent and is enforceable through the Provincial Court 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: April 08, 2011.

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Residential Tenancy Branch