



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with an application by the tenants for a monetary order. Both parties participated in the conference call hearing.

### Issue to be Decided

Are the tenants entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on May 1, 2008 and ended on November 30, 2011. The parties were in a previous dispute resolution hearing in March. The tenants seek to recover wages lost as a result of participating in that hearing.

The tenants also seek to recover \$500.00 in compensation for refrigerated and frozen items which they claim were lost as a result of a malfunctioning refrigerator. The tenant D.P. who appeared at the hearing testified that the refrigerator in the unit stopped working properly in May 2010. She testified that the landlord sent repairmen, but was unable to repair the refrigerator and as a result, the tenants were without a refrigerator for approximately 5 weeks. D.P. testified that approximately \$500.00 in refrigerated and frozen food was lost, including \$300.00 in frozen prawns.

The landlord testified that in late 2009, the tenants advised that the refrigerator was not functioning properly, so on New Year's Eve, he brought them a spare refrigerator. In early January, a repairman repaired the old refrigerator and after several weeks when the tenants did not complain about the functioning of the spare refrigerator, it was removed as the landlord believed it was no longer required. He stated that the tenants contacted him again in May and said that while the refrigerator was functioning well, the freezer was not adequately freezing things. He testified that the tenants assured him that no food was spoiling.

The landlord provided a copy of a letter which he sent to the tenants in which he asked them to take temperature readings in the refrigerator and freezer for several consecutive days and then report those readings to him so he could diagnose the problem. He stated that the tenants took just one temperature reading, almost 3 weeks later, and when they provided that reading they again assured him that food was not spoiling.

D.P. did not dispute the landlord's testimony. The parties agreed that the landlord installed a new refrigerator on June 12.

### Analysis

I dismiss the tenants' claim for loss of wages incurred as a result of attending an earlier hearing as under the Act, the only litigation-related expense I am empowered to award is the cost of the filing fee.

In order to establish their claim for the loss of the food items, the tenants must prove on the balance of probabilities that the loss resulted from the landlord's actions or failure to act. The tenants did not dispute that they had told the landlord repeatedly that food was not spoiling and I find that as the landlord had no way of knowing that their refrigerated and frozen items were in jeopardy, there was no reason for him to act to replace the refrigerator earlier than he did.

I find that the landlord acted reasonably in the circumstances and accordingly I dismiss the tenants' claim.

### Conclusion

The claim is dismissed 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: April 30, 2012

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Residential Tenancy Branch