



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MND, MNR, MNDC, MNSD, FF

Introduction

This was a hearing with respect to applications by the tenant and by the landlords. The applications were heard together by conference call. In his original application the tenant claimed a monetary award in the amount of \$25,000.00 as damages for harassment, libel and slander, defamation of character and mental stress as well as damages for loss of quiet enjoyment and return of the security deposit.

The landlords applied for a monetary order and claimed amounts for damage to the rental unit and amounts for intimidation, loss of wages and an amount referred to as general damages for: "each day out of our home".

The original hearing scheduled to be heard by a different arbitrator on September 5, 2012 was adjourned without hearing evidence and was reconvened for hearing by me on October 10, 2012. The hearing proceeded on October 10th and it was continued on October 23rd and December 10th.

Preliminary matter

At the commencement of the hearing on October 10, 2012 I advised the tenant that I do not have jurisdiction to entertain claims for damages for defamation, including claims for libel and slander. The tenant elected to abandon his claims for libel and slander and defamation of character; he amended his application to claim payment of double his security deposit and damages for failure to provide quiet enjoyment as well as damages for harassment, mental stress and aggravated damages in the total amount of \$25,000.

Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

Are the landlords entitled to a monetary award and if so, in what amount?

Background and Evidence

The rental property is a house in Nanaimo. The rental unit is a basement suite in the house. The landlords live in the upstairs portion of the house. The tenancy began on June 1, 2011 for a one year fixed term. The monthly rent was \$850.00, payable on the first of each month. The tenant paid a security deposit of \$425.00 prior to the commencement of the tenancy.

The tenant owns a motorcycle. He kept it on the rental property. The storage of the motorcycle and the tenant's access to the rental property later became an issue between the parties.

The landlord said that in July she noticed a strip of black paint or oil on the grass outside of the rental unit. She said that the tenant painted the front grill from his car and some of the paint was tracked onto her carpets. The landlord said that the substance on the carpet also might have been motor oil. The landlord sent an email to the tenant asking him to be more careful and to keep the grass area clean. According to the landlord the tenant told her that it was not paint or oil, but bacon grease that he had thrown on the grass. He then asked her to "pretty please" stop bothering him about it. The landlord considered that the tenant was mocking her. She said that the tenant's attitude became more negative thereafter. She said that the tenant started "blaring his stereo very loudly disturbing her children. She said the tenant complained about the noise made by her two young children. There were e-mail exchanges between the parties concerning noise; the tenant complained about early morning noise from the landlord's children

The landlord said that on the evening of December 6, 2011 she was awakened by the tenant who was yelling: "Oh God Have mercy on my soul". She said that she was concerned and called him a few hours later. He apologised and said he had a frightening dream. The tenant was away from the rental unit for some time afterwards. The landlord said that after the tenant returned he was subdued, but complained frequently about noise and asked her to quiet the children. She said that the children were always quiet from 7:00 P.M. to 7:00 A.M. but the tenant would retaliate when the children made noise in the daytime by "blasting" his stereo.

The landlord complained that in December, 2011 the tenant started storing his motorcycle inside the rental unit.

The landlord referred to an incident on April 14, 2012. It was her husband's birthday. The landlord had guests over. She received an e-mail from the tenant; he said: "Holy

Crap! It sounds like World War 3 up there!” The landlord said that after she explained the event, the tenant “back pedalled somewhat”

The landlord referred to an incident on May 13, 2012 as the “straw that broke the camel’s back”. She described an altercation outside the rental property. Her husband had landscaped an area of the property to plant grass; this was an area the tenant traversed with his motorcycle when arriving at or leaving the rental unit. The landlord’s husband spoke to the tenant and asked him to access the property by way of the adjoining vacant lot. The landlord said that the tenant agreed to this proposal, but later they found a motorcycle track over the freshly landscaped and seeded area. The landlord’s husband then put up stakes and tape to cordon off the area. The tenant returned later and complained about his restricted access and a heated argument ensued. The tenant and the landlord’s husband exchanged profanities. It was after this incident that the landlords decided to evict the tenant. The tenant’s principal objection was the manner in which the landlord spoke him. He also appeared to be concerned that the landlord’s access restriction required him to trespass over the adjacent vacant lot instead of passing to the rental unit over the landlord’s property. The landlord did not consider this to be a significant inconvenience. The tenant denied that he was told of the landlord’s landscaping plans or that he agreed to them. He said that the landlord covered the gravel area with dirt. When he went out at noon he went out with his motorcycle and was forced to drive over the dirt patch. He said that when he came home later the landlord started ranting at him and using profane language. He said that he was afraid the male landlord would physically attack him. He said he felt intimidated and harassed.

The landlord said that the following evening the tenant knocked on her door to request a spare key to the rental unit because he had lost his key. The landlord told him that her husband had the spare key and was not home. She said she was afraid of the tenant and telephoned her neighbour and had her come over before going downstairs to let the tenant into his suite. She feared that the tenant was trying to trick her into giving him her key to the rental unit.

The landlord testified that the tenant began playing his stereo very loudly at night and then starting regularly running the water until the hot water supply was exhausted and also running the dryer for long periods and late at night. The landlord served the tenant with a one month Notice to End Tenancy for cause on May 19, 2012. The tenant applied to dispute the Notice to End Tenancy on May 21, 2012.

On May 25, 2012 the landlord received an e-mail from the tenant; in it he said:

I have a proposition for you. If you give me my damage deposit of \$425.00 plus \$50.00 for the fee I incurred for filing my residential tenancy act dispute immediately, I would be willing to move out by the end of May 2012 and I will never have to see either of you again.

The other option is a long, drawn out dispute
Let me know as soon as you are able

It was at this point that the landlord began to send letters and statements to the tenant's employer complaining about his behaviour and requesting that the employer, a government agency, assist in ending the tenancy.

The landlords responded to the tenant's e-mail on May 26th. They said:

We agree that it is best that you move out as soon as reasonably possible. (by months end)

Your damage deposit will be returned to you within 2 weeks of your vacating as the tenancy law states, by mail to your forwarding address.

In the meantime we ask that you keep to a civil and reasonable distance and please not come to the door, etc. If you need to communicate with us, please call (named of landlord) on his cell phone.

The tenant responded on May 27th. He said in part:

A long drawn out dispute it is then 😊
I have no intention of moving out of my residence anytime soon.

The landlord testified that the tenant persisted in running the water and draining all the supplies of hot water from the two 60 gallon hot water tanks and running the clothes dryer between midnight and 3 A.M. for the purpose of harassing and antagonizing the landlord.

On May 29, 2012 the landlord applied for an early end of tenancy. The application was scheduled for hearing on June 8, 2012. The tenant's application to cancel the Notice to End Tenancy was set for hearing on June 14, 2012

The landlord said that her husband was frequently away from home due to the nature of his work. She said she felt unsafe when she was at home alone with the tenant in the house because of what she perceived as his aggressive and combative nature. She called the RCMP non-emergency line on May 29th at 2 A.M. because of the running water and dryer operation. She was told that it was a tenancy issue and they could not assist. The landlord's plumber attended on the morning of May 29th. He confirmed that the hot water tanks were in proper working order and said that excessive use of hot water was the reason for the shortage in the main house.

The landlord said that she and her children moved out of the house on May 30th and went to stay with a friend. The landlord filed an application for dispute resolution seeking an early end to the tenancy. She picked up the filed application and Notice of Hearing from the Residential Tenancy Office on May 31, 2012. The landlord returned home on June 1st. She said the dryer was running constantly and it was excessively hot upstairs in her part of the house. The Landlord was home until June 4th. On June 4th the landlords requested that the RCMP be present when they served the tenant with the hearing documents for the early end of tenancy application. Constable K.B. attended at the house; the tenant was not home. The constable offered to enter the rental unit after hearing the landlord's concerns about heat and the constantly running dryer. According to the landlord the windows were barred and it was alarmingly hot in the rental unit. The tenant returned before 7:00 P.M. Another RCMP officer attended at the landlord's request and the landlord said the tenant was ranting at her husband and the RCMP constable. The landlord said that she and her family packed and left the house to stay at a hotel.

The landlords returned home on June 7th. They observed through the window to the rental unit that the unit was mostly empty with the exception of the bed and sofa wrapped in cellophane.

The landlords' application for an early end to the tenancy was heard on June 8th. At the hearing the tenant opposed the application and maintained that he intended to continue the tenancy. The application was dismissed, in part because the tenant's application to cancel the one month Notice to end Tenancy was set for hearing in less than a week, on June 14th.

On the evening of June 8th a neighbour called the landlords at the inn where they were staying to advise that the tenant's moving truck had come and gone from the rental unit. The landlord's husband went to the house. He saw that the rental unit was empty and discovered that something was broken in the lock. He called the police, but he was told that the police would not get involved because it was a tenancy matter. He stayed at

the house and at approximately 10:00 P.M. the tenant arrived in the company of an RCMP officer. The tenant said that he could not enter the rental unit because the landlord had changed the lock and he called the police to have the officer compel the landlord to let him into the rental unit. The landlord let the tenant into the suite through the door from the landlord's premises. The tenant said the police officer discovered that the lock would not open because there was part of a broken key in the lock. The tenant submitted the piece of broken key along with tracings of his key to the rental unit to demonstrate that the broken key matched his key. Because the tenant returned an intact key to the landlord, he wanted me to make the inference that it was the landlord's key that had been broken off in the lock and that the landlord had done this to prevent the tenant from gaining entry to the rental unit before the tenancy had ended. The landlords denied having anything to do with the broken key. The landlord's view was that this was a ploy by the tenant to make it appear that the landlord had acted improperly or vindictively.

The landlords testified that when they allowed the tenant into the rental unit on June 8th the heat was up to maximum, all the lights were on and all fans were turned on. The landlords testified that bright blue coloured grease had been spread on every door handle, cupboard knob, refrigerator door, and oven door throughout the suite. The RCMP constable was upset at getting the grease on his hands. The landlords said that when the constable questioned the tenant he acknowledged that a friend had spread the grease as a prank. Although the rental unit was completely empty the landlords testified that the tenant remained in the rental unit after the RCMP office departed. During the hearing the tenant was questioned about this incident. The tenant was reluctant to answer. He did say that it could have been a friend trying to play a prank, but he later said that he did not know who put the grease on the handles in the rental unit.

On June 9th the landlords entered the rental unit to post a notice to the tenant. They had a police officer join them. The heat was turned up. There was a horrible stench inside the unit. The tenant left a picture taped to a door inside the suite. The picture was a photograph of a white poodle with the caption "Yappy Bitch". The tenant arrived at the rental property later that day. He was banging on the door trying to get into the suite. The landlords called the police. The police met the tenant away from the rental unit and obtained the keys from him. According to the tenant this meeting took place at the tenant's request so that he could avoid having contact with the landlords and he had attended at the unit only for the purpose of removing some castoffs left outside that he wanted to dispose of.

The landlord submitted photographs of the rental unit and gave a description of its condition after June 8th. The landlords said that the tenant caused extensive malicious damage to the rental unit shortly before he finally vacated. There was a piece of dead fish left in the unit, hidden behind the clothes dryer and a package of uncooked chicken had been placed in the heat exchange coils at the back of the refrigerator. The landlords found a second piece of rotting fish inside a large outdoor storage unit. The landlords testified that the carpets were soaked with urine in several locations. There was food, including sliced bread and a banana that had been left to mould in a cupboard. Some noxious substance that they believed to be bear spray had been sprayed in various places in the rental unit. The landlords contacted their insurer and an insurance adjuster attended to assess the landlord's claim and a restoration company was hired to repair damage. Some of the scent spray had been sprayed on walls and on the carpet. Sections of the carpet were found to be soaked with urine. They were soaked through the underlay to the concrete floor beneath. The restoration company put air scrubbers in the rental unit to deal with the odour. The carpet was taken up and several sections of dry wall had to be cut out to deal with urine and scent that had been sprayed on or soaked into it.

The tenant responded to the landlord's testimony and photographic evidence. He said that the picture captioned "Yappy Bitch" was not directed at the landlord, rather it was a picture he found amusing and inadvertently left it taped to a door in the rental unit.

The tenant's witness, Mr. R.V.P., who is the tenant's friend, testified as to the condition of the rental unit. He said that he helped the tenant move out on June 8, 2012. He said that he saw the rental unit when the tenant moved out and the tenant left it very clean; he said that he did not see any damage to the suite. Mr. R.V.P. also provided a written statement wherein he said:

(Name of Tenant) told me that his landlords were trying very hard to cause problems for him because they were angry with him for not leaving his suite after they tried to evict him. He asked me to inspect his suite after moving out. He was worried that his landlords would cause some kind of problems for him. (Name of Tenant) took many pictures also for evidence and completed a condition and inspection report which I signed.

The tenant submitted other letters from acquaintances, attesting to his particularity and penchant for neatness and order. The tenant submitted a quantity of photographs of the interior of the rental unit, taken before and after he had moved his belongings out of the unit. The pictures show what appears to be a very neat, clean and well maintained

rental suite. According to the tenant: "There were no stains, marks, odours or deficiencies when I vacated the suite"

The tenant denied that ever did anything to harass or intimidate the landlords; instead he said it was he who was being harassed. He contacted the RCMP to complain after the landlord started contacting his employer to complain about him and when he learned from his employer that the landlord was threatening to go to the media because he did not move out after receiving an eviction notice. According to the tenant, the landlord was extremely angry about this. He said that the landlord then began fabricating noise complaints about his washer and dryer use and continued to make complaints to his employer. The tenant said that he was not at all responsible for the landlords' decision to leave their residence and he did nothing to cause them to leave.

The tenant testified that the landlord's husband has threatened him and sworn at him on several occasions. The tenant said that the husband deliberately broke his key off in the lock to prevent the tenant from accessing the rental unit. The tenant denied that he ever caused what he referred to a "revengeful damage" and said that this was yet another slanderous statement made by the landlord. The tenant complained that he was not given the opportunity to complete a condition inspection report at the end of his tenancy. Because there was not condition inspection and because he said the landlord accessed the suite without his permission: "Any claims for alleged damage to the suite cannot be associated to me and have no merit." He also said in his submissions that: "I took several photos of the suite upon vacating it and had witnesses verify the condition I left it, in anticipation that my litigious landlords would attempt to fabricate some type of claim against me as a result of their anger management issues."

The tenant's application to cancel the landlord's one month Notice to End Tenancy was to be heard on June 14, 2012. The tenant did not attend the hearing. On June 13th he sent a letter to the landlord requesting the return of his damage deposit. In the latter he said that he agreed to allow the landlord to keep \$226.64 out of the \$25.00 deposit as payment for rent for the period from June 1st to June 8th. He requested that the balance of \$198.36 be mailed to him at the rental unit address when it would be re-directed to his current address.

Much of the tenant's submissions were made with respect to his position that the landlord had libelled and defamed him by her communications to his employer. He also said that the landlord's accusation that he vandalized her house was a slanderous and defamatory statement against him. The tenant did not submit any evidence concerning any adverse consequences with respect to his employment stemming from the landlord's communications to his employer.

Soon after the landlord began to send messages to the tenant's employer, the employer responded saying that there was no role for the employer to be involved in what was a tenancy dispute; this, however, did not dissuade the landlord from continuing to send e-mails and chronologies of events to the employer. When the landlord was asked why she communicated with the tenant's employer and why she continued to send communications, her repeated response was: "Well we needed help". She did not specify what it was that she expected from the tenant's employer. The landlord also made references to going to the media with her concerns about the tenant. The landlord continued to send e-mails to the tenants' employer well after the tenancy ended. In a June 21, 2012 e-mail to the tenant's employer she said in part:

Hi fellas,

I feel the need to keep you in the loop as I had keep you updated while asking for some assistance or intervention from you that we never did receive, in light of (name of tenant)'s "privacy rights". I have backed off from communicating with you due to this fact. I assume at this point you are not communicating with (name of Tenant) in this matter, and at this point I suppose that is for the best. We are still nervous of any retaliation he may take, especially as this situation is still growing.

The landlord's e-mail message continued for another three paragraphs touching on the damage to the rental unit and the involvement of police and crown counsel and then concluded with the statement that: "But in your eyes (name of tenant)'s privacy is more important, we realize....."

In their application for dispute resolution the landlords claimed a monetary order in the amount of \$18, 170.92. In later documents submitted they sought to enlarge that claim to the sum of \$24,639.92, including a claim for \$10,000 in general damages and a claim by the landlord for loss of employment income. The original amount claimed consisted of the following:

Costs/losses as a result of the tenant's intimidation - \$3,730.55

The landlord described this claims as: "Total costs to us as a result of (name of tenant)'s harassment, which led us to flee our home for 10 days (May 30th thru June 9th), and necessary safety precautions, is \$3,750.55, as listed below"

- Service station gasoline charges: \$79.77

- Hotel bill: \$150.19
- Hotel bill \$278.98
- BC Ferries chare \$53.45
- Increased Hydro costs \$227.06
- Copying charges \$20.25
- Locksmith charge \$125.00
- Accommodation charge \$250.00
- Undocumented expenses \$448.37
- Eviction and mailing fees \$104.69
- Security system install \$1,952.16
- Evidence photos \$29.88
- Garbage dump charge \$10.75

The landlord has claimed a further \$4,440.37 for damage to the rental unit made up of the following:

- Insurance deductible: \$500.00
- Carpet upgrade cost \$528.62
- Repaint suite, part not paid by insurer \$1,273.32
- Insurance fee increase 15% \$254.03
- Rent for June \$850.00
- Loss of revenue for July \$850.00
- Carpet cleaning upstairs \$134.40
- Filing fee \$50.00

The landlord claimed a further \$1,000.00 for each day they claimed to have been out of their home due to the tenant's conduct, for a total of \$10,000.00.

In his initial form of application for dispute resolution the tenant claimed a monetary order in the amount of \$60,516.72.

He said that he was:

Seeking damages for harassment, libel, slander, defamation of character, mental stress, in addition damages for landlords entering my premises without authorization and not returning my damage deposit

The tenant later amended his claim to reduce it to the small claims limit of \$25,000.00. At the outset of the hearing I advised the tenant that I did not have jurisdiction to

entertain the tenant's claim for defamation, libel and slander; the tenant said he would abandon his defamation claims. On October 16, 2012, after the first day of the hearing, the tenant further amended his claim to claim as follows:

The applicant claims as follows: a) Double security deposit \$850.00 b) Filing fee \$200.00 c) Failure to provide quiet enjoyment \$2500.00 d) Harassment, Mental Stress & Aggravated Damages \$21,450.00

Analysis and conclusion

Upon the evidence I find that a heated argument took place on May 13, 2012 at the rental property between the male landlord and the tenant concerning access to the rental property after the tenant rode his motorcycle over a newly seeded area. I find that after this incident occurred the tenant commenced a pattern of behaviour that was intended to annoy and harass the landlords, in particular the female landlord. The tenant denied engaging in any harassing behaviour. I did not believe the tenant and I did not believe that the landlord fabricated the events complained of in order to justify giving the tenant a Notice to end his tenancy. I find that the tenant was angry because of the noise disturbances created by the landlord's young children and because of what he felt was her nagging and interference with his quiet enjoyment of the rental unit. The tenant was particularly angered by the husband's attempt to restrict his motorcycle access to the property and to, in his view, require him to commit a wrong by making him trespass over the neighbour's property.

I find that the tenant did commit the acts of vandalism to the rental unit as claimed by the landlord and as shown in the landlord's photographs. I find that he performed these acts on the evening of June 8th after he was readmitted to the rental unit. The tenant said that he had no idea how the blue grease found its way onto the handles and knobs throughout the rental unit, but was forced to an acknowledgement that the blue grease might have been a "prank" by a friend; his evidence on this point was hesitant and unconvincing. Contrary to the tenant's submissions that the landlord broke off a key in the lock to prevent his access to the unit, I find that this was more likely staged by the tenant, using a spare key that he had cut at some time during the tenancy. The tenant's credibility was not enhanced by his testimony that the photograph taped to the door entitled "Yappy Bitch" had been left in the rental unit due to inadvertence and was not intended as a comment directed at the landlord.

With respect to the other acts of vandalism, namely: leaving pieces of dead fish in the unit and the storage locker, raw chicken in the back of the fridge and urine and bear

spray on the carpets, I saw no indication that the landlords were capable of acting against their own self interest with the kind of devious subtlety that would be required to cause them to extensively damage their own property for the sole purpose of elaborately framing the tenant, particularly when they had finally achieved the desired goal of ending his tenancy. I find that the tenant acted intentionally and vindictively to damage the landlords' property to cause distress to the landlords. The evidence from the tenant's witness as to the condition of the rental unit related to its condition when he helped load the tenant's furniture and belongings, but not to the state it in which it was left after 11:00 P.M. when the tenant finally vacated the unit.

The landlords' claim

The landlords are entitled to recover their costs to repair the damage caused by the tenant and for loss of revenue that they may have suffered. The landlords' evidence is that the repairs were covered by their insurer, but the landlords had to pay the insurer a \$500.00 deductible. Although the landlords suggested it, the insurer did not seek to include a subrogated claim against the tenant as part of this proceeding. The landlords testified that, in addition to the deductible they had to pay other amounts to return the rental unit to its former condition. The landlords paid \$528.62 to upgrade the replacement carpet to the quality of the damaged carpet. They paid an extra \$1,273.32 for additional painting said to be necessary to mask and kill the odour in the rental unit. The landlords claimed loss of rent for June and loss of rental income for July because of the time it took to carry out the restoration work. The landlords requested \$254.03, being the amount by which their insurance premiums would increase in the following year due to the claim. This was reported to be a 15% increase. The landlords claimed \$134.40 to clean the upstairs carpets to remove lingering odour. These amounts total \$4,390.37

The landlords did not provide evidence to establish the quality of the original carpet and to show that an upgrade was appropriate to bring the rental unit back to its original state. Similarly it was not adequately established that there were additional painting costs due to damage to the rental unit not covered by the insurer. I do not allow these two items of expense because it has not been established that a carpet upgrade was required to make the landlords whole and put the unit back to its former condition and it was not shown that additional painting was needed to repair damage caused by the tenant; presumably if the painting was required as part of the restoration, it would have been covered by the insurer. For repairs and loss of rental income for June and July, I award the landlords the sum of \$2,588.43.

The landlord claimed \$3,750.55 for expenses which they said were incurred for accommodation and other expenses to live away from their home for several days before the tenancy ended. They included in the claimed amounts an amount paid to install a security system in the rental unit in the amount of \$1,952.16. They also included costs incurred as part of the residential tenancy dispute resolution process that are not allowable expenses such as photocopying charges, mailing charges and photography charges. They claimed increased Hydro costs, the locksmith charge and a dump fee as costs or losses incurred due to the tenant's intimidation. The locksmith charge I allow as part of the costs for repairs because I find it was a necessary expense at the end of this troubled tenancy. I do not allow the landlord's claim for increased Hydro costs. The Hydro was included in the rent and although I have the landlord's testimony that the tenant misused the Hydro for a period of time at the end of the tenancy I am unable to find that the claim to a monetary amount has been proven, based on a comparison of usage from 2011 to 2012, bearing in mind that the tenancy did not begin until June 1, 2012 and other factors, including weather may affect the usage.

In addition to these amounts the landlords claimed \$10,000.00 characterized as general damages said to be for each day the landlords were out of their home, but also described as damages for intimidation, harassment and mental suffering. I will not address the claim for loss of employment income; this was not the subject of an amendment to the landlord's application, rather it was added as part of the documentary evidence submitted after the claim was made and it does not form part of the claim. The landlords also sought to enlarge their claim for increased insurance costs to raise it to the sum of \$1,270.15. This increased claim was not the subject of an amendment and I do not allow it.

The landlords' claim for damages for intimidation harassment and mental suffering appears to fall within the ambit of the tort of intentional infliction of mental distress. The case law with respect to this cause of action notes that that only flagrant and extreme conduct inflicting mental suffering is actionable. I consider that the tenant's intentional conduct in sabotaging the rental unit falls within that description. I find that the landlords did suffer mental distress as a result of the tenant's intentional actions and that they are entitled to compensation for that distress. I do not find that it is appropriate to award them specific amounts to pay for their stay outside the rental unit and I do not find that the tenant is responsible for the cost to install a security system in the rental property. The landlords' claims as expressed appear to seek a double recovery; the landlords want to be paid for their hotel and other expenses when they were away from the rental unit and they also want payment of the sum of \$1,000.00 for each day they claim to have been away from their home, the latter said to be as an award of general damages.

This latter amount sounds more akin to an award for loss of quiet enjoyment, a remedy not available to a landlord under a tenancy agreement.

An award of damages for mental distress must by its nature be somewhat arbitrary. Bearing in mind that such an award is intended to be purely compensatory and not punitive, I fix the award to the landlords for damages under this head at the sum of \$4,000.00. The total award to the landlords is the sum of \$6,713.43. The landlords are entitled to recover the \$100.00 filing fee for a total award of \$6,813.43. The landlords filed their application for dispute resolution to claim the deposit within 15 days of receiving the tenant's letter advising them of his forwarding address. I order that the landlords retain the security deposit of \$425.00 in partial satisfaction of the award leaving a net amount owing of \$6,388.43.

The tenant's claim

The tenant abandoned his claims based on defamation of character and the issue with respect to the landlord's e-mails and communications sent to the employer is not so much about their veracity as it is about their, their appropriateness. The messages were emotional, overwrought and filled with excessive detail and suppositions about the tenant's intentions, reasoning and state of mind, as well as information of uncertain authenticity about past events involving the tenant before the tenancy began. They continued after the tenancy ended, even though at that time the landlord was dealing with the police with respect to her concerns about tenant,

Instead of concentrating her efforts and dealing with the tenant through the mechanisms available under the *Residential Tenancy Act* or by consulting a lawyer to obtain advice as to how to proceed, the landlord took it upon herself to pursue what I consider to be the wholly inappropriate course of attempting to involve the tenant's employer in her tenancy dispute with him. The documents that she sent to the employer were released to the tenant pursuant to his requests pursuant to privacy and freedom of information legislation. Not surprisingly these communications only served to further inflame the situation. I find that the landlord's communications to the tenant's employer constituted harassment and that they were entirely inappropriate and I find that the tenant is entitled to a monetary award to compensate him for the landlord's harassment, the stress that resulted and the potential harm caused by her unwarranted interference with his employment. The tenant was far from blameless in all the circumstances, however and I do not have evidence to show that any consequences with the tenant's employer resulted from the landlord's communications. I find that the compensation to the tenant must therefore be modest. Since this award is also intended to be compensatory and not punitive, I fix the amount of the award at \$3,000.00. I make no award to the tenant

for loss of quiet enjoyment. He rented the unit knowing that a family with young children lived upstairs and given the tenant's conduct in disturbing and annoying the landlords during the latter part of the tenancy, I do not find that he is entitled to any award for loss of quiet enjoyment of the rental unit. The tenant applied for the return of his security deposit, including double the amount of the deposit. The landlord's commenced their application to claim the deposit within 15 days of receiving the tenant's letter requesting the return of a portion of the deposit; therefore there is no basis for an award of double the amount of the deposit. I have deducted the amount of the deposit from the award granted to the landlords and this portion of the tenant's claim is dismissed. The tenant is entitled to recover the \$100.00 filing fee for his application, but not filing fees paid for any previous application. The total award to the tenant is the sum of \$3,100.00.

Pursuant to section 72 of the *Residential Tenancy Act*, I set off the award made to the tenant against that in favour of the landlords. This leaves a net amount due to the landlords of \$3,288.43 and I grant the landlords a monetary order under section 67 in the said amount. This order may be registered in the Small Claims 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 *Residential Tenancy Act*.

Dated: January 29, 2013.

Arbitrator
Residential Tenancy Branch

