



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

*MNDC, MNSD, FF*

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for moving costs, lost wages, storage costs, the return of the security and pet deposits, and for the filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

On August 05, 2015, the tenant visited the Residential Tenancy Branch Office and filed 251 pages of evidence. The tenant also included an additional monetary claim in the total amount of \$132,000.00. A hand written note states that this amount is in addition to her original claim of \$19,578.24. The tenant stated that she was unable to serve this evidence on the landlord because he had moved and she did not have a forwarding address for him.

At the start of the hearing, I explained to the tenant that as per section 27 of the *Residential Tenancy Policy Guideline*, the monetary limit of my jurisdiction is limited to the same amount as the Provincial Court which is \$25,000.00 and that a claim for money that exceeds that amount must be heard in Supreme Court. I also explained to the tenant that she had the option of abandoning part of her claim to come within the jurisdictional limits of the *Residential Tenancy Act*.

The tenant chose to abandon the additional claim of \$132,000.00 and proceed with her original claim of \$19,578.24. The tenant confirmed that she understood that the abandoned portion of her monetary claim was dismissed without leave to reapply.

The landlord acknowledged receipt of evidence submitted by the tenant for the original amount of her claim. The tenant stated that she did not receive the landlord's evidence. The landlord filed proof of having sent his evidence by courier. The tenant agreed that an agent had knocked on her door to inform her that she had a package.

The tenant stated that the agent would not give her information regarding the sender of the package and therefore she did not pick it up. The tenant also stated that the landlord had missed one digit in her mailing address. As the tenant cannot evade service by neglecting to pick up registered mail, I find the tenant was duly served with the landlord's evidence.

Both parties gave affirmed testimony.

Both parties provided extensive documentary evidence. All parties' testimonies and evidence have been considered in the making of this decision. As this matter was conducted over 95 minutes of hearing time, I have considered all the written evidence and oral testimony provided by the parties but have not necessarily alluded to all the evidence and testimony in this decision.

### **Issues to be decided**

Is the tenant entitled to the return of the security deposit and lost wages? Is the landlord responsible for costs incurred by the tenant for storage and moving?

### **Background and Evidence**

The parties entered into a tenancy agreement on December 18, 2014 for a tenancy that would start on January 01, 2015 and continue for a fixed term of one year. The monthly rent was \$1,600.00 due on the first of each month. The tenant paid a security deposit and a pet deposit in the total amount of \$1,600.00. The rental unit is located in lower level of the landlord's home. The landlord lives upstairs. A copy of the tenancy agreement was filed into evidence. The rent includes shared laundry.

The tenant stated that at the time she entered into the tenancy agreement she was house sitting for a friend and therefore even though she paid rent for January 2015, she moved into the rental unit on January 17, 2015.

The tenant testified that prior to moving in, she had arranged for movers to place a container of her belongings outside the rental unit and that the landlord had agreed to this arrangement. The tenant stated that despite agreeing to this arrangement, the landlord harassed her for three days in succession to move the container. The landlord stated that the container was placed right on the driveway just outside his front door which restricted his entry into his home and also restricted the parking of his vehicle.

The tenant stated that on the first day of her stay in the rental unit, the landlord was playing loud music. The tenant informed him that he was disturbing her. The tenant

agreed that the landlord turned it down immediately and refrained from playing loud music for the remainder of the tenancy.

The tenant stated that the landlord was rude and entered the rental unit without permission. The landlord denied having entered the rental unit. The landlord replied that he entered the lower level of the house for the purpose of doing laundry and since it was shared, he did not have to obtain permission.

The landlord filed a copy of a floor plan stamped by a real estate company. This plan was provided to the landlord at the time he was looking at the home with intentions of purchasing it. The landlord purchased the home on November 30, 2014 just one month prior to the start of tenancy. The tenant agreed that the floor plan depicts the lower level of the home.

The plan shows that a door from the garage provides entry into a passage which leads to a hallway. The hallway lies perpendicular to the passage and forms a T shape with the passage. At one end of the hallway is the laundry room and at the other end is a storage room. A door to the rental unit is also located in this hallway. The tenant stated that she requested that the lock on the door to the rental unit be replaced and the landlord complied with her request.

The landlord stated that he used the common passage and hallway to gain access to the laundry room. The tenant stated that the landlord entered the hallway without giving her written notice. The landlord explained that he had informed the tenant at the start of tenancy that the laundry is shared and that the hallway leading up to the laundry room is also shared. The tenant made up a schedule for the landlord's use of the laundry and stated that he did not abide by it.

The tenant also stated that the landlord chose to communicate solely with the male tenant (AC) and refused to speak with her because she was female. The landlord responded that he preferred to communicate with AC not because he was male but because the female tenant was aggressive and rude to him. The landlord also stated that the tenant passed racial slurs towards him.

The tenant stated that the landlord asked AC to report his comings and goings to the landlord. The landlord denied this. The tenant also stated that the landlord asked AC for proof of his immigration status in Canada and gave AC 24 hours to produce the document.

The tenant stated that the landlord harassed her by sending multiple emails to her.

The tenant complained that the landlord disconnected the sauna that was located in the common hallway. The landlord explained that at the time they entered into the tenancy agreement, he gave the tenant the option of using the sauna and paying part of the utility bill or not use the sauna at all. The tenant chose the latter. The landlord stated that he informed the tenant that she could use the room for storage only.

The tenant stated that after a week of residing in the rental unit, she decided to move out. On January 24, 2015, the tenant sent the landlord an email requesting a mutual end to tenancy, effective February 28, 2015. The landlord responded that same day also by email, accepting the mutual end to tenancy effective February 28, 2015. Both emails were filed into evidence.

The tenant stated that on January 25, 2015, she and her husband AC met the landlord in the driveway as they were returning to the rental unit and the landlord started to yell at them. The tenant decided to move out immediately and started moving her belongings out that day. The tenant testified that she was fully moved out by January 28, 2015.

During the hearing the tenant presented her reasons for her claim for compensation in the amount of \$5,000.00, for pain and suffering as follows:

- a) Landlord entered rental unit to use laundry room without permission
- b) Landlord did not follow schedule for use of laundry
- c) Landlord yelled at tenant on January 25, 2015
- d) Landlord chose to communicate with male tenant only
- e) The keys provided on January 01, 2015 did not work
- f) Landlord asked the male tenant to report his comings and goings to landlord
- g) Landlord questioned the tenant about the business she ran out of the unit
- h) Landlord eavesdropped on conversations between male and female tenants
- i) Landlord asked male tenant for proof of immigration status in Canada
- j) Landlord sent the tenant multiple emails
- k) Landlord harassed the tenant to move the container placed on the landlord's driveway
- l) The sauna did not work
- m) Landlord's behaviour towards tenants was unacceptable
- n) Landlord was manipulative
- o) Rental unit was not safe

The tenant has made a claim as follows:

1.	U-haul rental	\$66.51
2.	U-pak rental	\$147.00
3.	Movers	\$3,200.00
4.	U-pak to restore items	\$289.25
5.	U-haul	\$92.48
6.	Gas for moving	\$23.01
7.	Movers	\$1,280.00
8.	Cost of displacing friend to use her home	\$588.88
9.	Cost of looking for accommodation	\$2,000.00
10.	Return of rent for January 2015	\$1,600.00
11.	Security and pet deposit	\$1,600.00
12.	Loss of income	\$1,050.00
13.	Repairs	\$27.80
14.	Mailing costs	\$13.60
15.	Time to check online information on landlord	\$2,400.00
16.	Printing and photocopies	\$199.71
17.	Compensation for pain and suffering	\$5,000.00
	<b>Total</b>	<b>\$19,578.24</b>

## **Analysis**

Section 45(2) of the *Residential Tenancy Act* states that a tenant may end a fixed term tenancy by giving the landlord notice to end the tenancy effective on a date that:

- (a) Is not earlier than one month after the date the landlord receives the notice
- (b) Is not earlier than the date specified in the tenancy agreement as the end of the tenancy and
- (c) Is the day before the day in the month on which the tenancy is based that rent is payable under the tenancy agreement.

The tenant was in a fixed term tenancy that was due to end on December 31, 2015. On January 24, 2015, the tenant requested the landlord by email to agree to end the tenancy effective February 28, 2015. The landlord accepted, also by email. Therefore, I find that on January 24, 2015, the parties entered into a mutual end to tenancy agreement with an effective date of February 28, 2015.

However, the tenant chose to move out on January 28, 2015 and did not pay rent for February 2015. The landlord requested loss of income for February. I informed the landlord that in regards to his claims relating to loss that he may have suffered, I am not able to hear or consider his claim during these proceedings as this hearing was

convened solely to deal with the tenant's application. The landlord has made his own application and this is scheduled to be heard on August 24, 2015.

The parties agreed that the tenancy ended by mutual agreement. Therefore I find that the tenant is not entitled to costs incurred for moving or any other costs related to moving. Accordingly the tenant's claim for item numbers 1 to 9 as listed on the table above is dismissed.

10. Return of rent for January 2015 - \$1,600.00

The tenant occupied the rental unit in January and therefore is obligated to pay rent. Accordingly the tenant's claim for the return of rent is dismissed.

11. Security and pet deposit - \$1,600.00

The landlord has already made a claim against the deposits and this is scheduled to be heard on August 24, 2015. Since the date of the next hearing is less than two weeks away, I find that it will be administratively efficient for the return of the deposits to be addressed during this upcoming hearing.

12. Loss of income - \$1,050.00

The tenant is claiming a loss of income because she had to take time off to move. The tenant requested a mutual end to tenancy and therefore chose to spend time moving to another rental unit. I find that the landlord is not responsible for any income the tenant may have lost due to her move.

13. Repairs - \$27.80

The tenant stated that prior to moving out, she patched and painted the walls and is claiming the cost of doing so. The tenant is only responsible for damage caused by her other than wear and tear. Since the tenant resided in the rental unit for less than two weeks, it is more likely than not that the damage to the walls is not due to wear and tear. I find that the tenant is responsible for damage that is not due to wear and tear. Accordingly the tenant's claim is dismissed.

14. Mailing costs - \$13.60

The legislation does not permit me to award any litigation related costs other than the filing fee.

15. Time to check online information on landlord - \$2,400.00

The tenant has filed into evidence, print outs of the extensive online search that she did to gather personal information on the landlord's educational credentials. Since this matter is not related to the tenancy and not within the jurisdiction of the Residential

Tenancy Branch, the tenant's claim for the cost of her time to do this search is dismissed.

16. Printing and photocopies - \$199.71

The legislation does not permit me to award any litigation related costs other than the filing fee.

17. Compensation for pain and suffering - \$5,000.00

I will address each of the tenant's complaints as listed above:

a) Landlord entered rental unit to use laundry room without permission

As per the tenancy agreement, the laundry was shared and was located in a shared area. Therefore the landlord was not required to seek permission or provide notice to the tenant, prior to entering the area for the purpose of doing laundry.

b) Landlord did not follow schedule for use of laundry

The landlord was not required to follow the tenant's schedule.

c) Landlord yelled at tenant on January 25, 2015

The landlord denied yelling at the tenant and even if I accept the tenant's testimony, I find that yelling at someone on one occasion does not entitle a person to compensation.

d) Landlord chose to communicate with male tenant only

The landlord stated that the female tenant was rude and aggressive and therefore he chose to deal with the male tenant. Since the tenants were in a co tenancy, the landlord was at liberty to communicate with either of them.

e) The keys provided on January 01, 2015 did not work

The tenant requested a replacement and was provided one.

f) Landlord asked the male tenant to report his comings and goings to landlord

The landlord denied this allegation and the tenant did not provide evidence to support her testimony. Since the tenancy was less than two weeks, it is unlikely that the landlord would have requested information such as this.

g) Landlord questioned the tenant about the business she ran out of the unit

The landlord stated that he was not aware that the tenant intended to run a home business out of the rental unit. The tenant stated that in her proof of income to the landlord, she mentioned that she worked from home. The tenant added that from the proof of income statement given to the landlord, she assumed that the landlord would be informed about her home run business.

The landlord has the right to enquire about a business that is being operated out of his home and therefore I find that the landlord was within his rights to do so.

h) Landlord eavesdropped on conversations between male and female tenants

The landlord denied this allegation.

i) Landlord asked male tenant for proof of immigration status in Canada

The landlord may ask for references to establish credit, job status, past landlord reference, immigration status etc.

j) Landlord sent the tenant multiple emails

Even if I accept the tenant's testimony that the landlord sent her multiple emails, the tenant could have reported this behaviour to the police if she felt she was being harassed.

k) Landlord harassed the tenant to move the container placed on the landlord's driveway

The landlord agreed to allow the tenant to store the container on the driveway. However, the landlord stated that the container was placed right in front of his front door which restricted access to his home. I find that the landlord acted reasonably when he requested that the storage container be moved to the side.

l) The sauna did not work

The landlord stated that the sauna was not included in the tenancy agreement. A copy of the tenancy agreement that was filed into evidence supports the landlord's testimony.



m) Landlord's behaviour towards tenants was unacceptable

Both parties testified that the behaviour of the other party was unacceptable. The tenant has not proven that the landlord's behaviour towards her during the 11 days of tenancy was so unacceptable that it is worthy of compensation.

n) Landlord was manipulative

Based on the testimony of both parties, I find that the landlord did not manipulate the tenant.

o) Rental unit was not safe

The tenant lived in the unit for less than two weeks and if she found it unsafe, she should have provided this information to the landlord during the tenancy, thereby giving the landlord an opportunity to rectify any problems that may have existed.

Based on the above reasons, I find that the tenant has not proven her claim for compensation for pain and suffering and accordingly I dismiss the tenant's claim for \$5,000.00. The tenant has not proven any portion of her monetary claim and must therefore bear the cost of filing her own application.

**Conclusion**

The tenant's application is dismissed in its entirety.

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 13, 2015

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Residential Tenancy Branch