



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding LANTERN PROPERTIES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCL, FFL

### Introduction

This teleconference hearing was scheduled in response to an application by the Landlord under the *Residential Tenancy Act* (the “Act”) for monetary compensation for damages and for the recovery of the filing fee paid for the Application for Dispute Resolution.

An agent for the Landlord (the “Landlord”) was present for the teleconference hearing, while no one called in for the Tenant during the approximately 22 minute duration of the hearing. The Landlord was affirmed to be truthful in his testimony and stated that the Tenant was served with the Notice of Dispute Resolution Proceeding package and a copy of the Landlord’s evidence by priority post mail that required a signature upon delivery. The Landlord stated that he received a package from the Tenant with a copy of the Tenant’s evidence and it was confirmed that this was the same evidence submitted by the Tenant to the Residential Tenancy Branch. As the Tenant submitted evidence and served a copy to the Landlord as well, I find that the Tenant was aware of the hearing and therefore I accept the Landlord’s testimony regarding service and find that the Tenant was duly served in accordance with the *Act*.

The Landlord also had a witness join during the teleconference hearing to present testimony. The witness was affirmed to be truthful in his testimony.

### Issues to be Decided

Is the Landlord entitled to monetary compensation for damages?

Should the Landlord be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

The Landlord provided testimony on the tenancy which was confirmed by the tenancy agreement submitted into evidence. The tenancy began on July 1, 2014. Current monthly rent is \$1,038.00 and a security deposit of \$465.00 was paid at the outset of the tenancy.

The Landlord stated that they received a call from the Tenant in October 2017 regarding a blockage in the bathroom sink. The Landlord stated that the Tenant insisted on immediate action, so they called a plumber, despite it being a weekend and therefore there were overtime charges from the plumber.

The Landlord submitted the invoice from the plumbing company dated either October 6, 2017 or June 10, 2017. The invoice states in part the following:

*Removed p-trap and ran super vee drain machine through line. Removed large blockage of hair and soap sludge from line.*

The invoice amount totalled \$212.63. The Landlord stated that the Tenant should be responsible for this bill due to the blockage being avoidable. He stated that the hair and soap blockage was found directly under the Tenant's sink and therefore did not occur from another rental unit.

The Landlord had the plumber who attended the rental unit join the hearing as a witness. The witness testified that when attending the rental unit, he found soap sludge and hair blocking the drain in the part of the pipe that connects to the bathroom sink. He stated that after removal, the sink was still blocked so he attended the neighbouring unit and found out their sink was blocked as well.

The witness stated that he was unsure whether the neighbour's blockage was a separate issue or had occurred from pushing the blockage forward towards that sink while trying to deal with the issue in the Tenant's unit. The witness stated his opinion that the blockage was avoidable and was connected to the Tenant's rental unit due to the blockage being right under the sink and not in the pipes in the wall. The witness further testified that he did not find any blockages in the neighbouring unit which leads to his opinion that the blockage started in the Tenant's rental unit.

The Landlord stated his position that the drainage issues in the rental unit were not normal wear and tear and instead were avoidable issues that led to damage caused by the Tenant who should therefore be responsible. The Landlord submitted email communication with the Tenant from July 2017 in which they discuss who should be responsible. The Landlord stated that he waited to apply for dispute resolution as he was trying to resolve the matter himself prior to filing an application.

### Analysis

Although the Landlord testified that the plumber attended the rental unit in October 2017, based on the email communication between the parties that occurred in July 2017, I find that the issue likely occurred in June 2017 with the plumber attending the rental unit on June 10, 2017. However, regardless of the exact date that the issue occurred, I refer to Section 32(3) of the *Act* which states the following:

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

Section 32(4) of the *Act* states that a tenant is not responsible for repairs due to reasonable wear and tear.

As stated by rule 6.6 of the *Residential Tenancy Branch Rules of Procedure*, the onus to prove a claim, on a balance of probabilities, is on the party making the claim. In this matter, I find that the Landlord submitted sufficient testimony and evidence to establish that the blockage in the sink was caused by the actions of the Tenant and was beyond what would be considered reasonable wear and tear.

In particular, I find the testimony of the Landlord's witness to be compelling evidence regarding the issue. The witness stated his opinion that the blockage was caused by hair and soap sludge in the area of the Tenant's drain right below the sink. I do not find evidence before me to establish that this was a blockage that occurred elsewhere in the residential property or that the blockage was caused through reasonable wear and tear for which the Landlord should be responsible.

Accordingly, as I find that the blockage was caused by the Tenant and not through wear and tear, I find that the Tenant was in breach of Section 32(3) of the *Act*. As stated in Section 7 of the *Act*, if a party does not comply with the *Act*, they must compensate the

other party for any loss that occurs as a result. Therefore, I find that the Tenant must compensate the Landlord \$212.63 for the cost of the plumber.

As the Landlord was successful with the application, pursuant to Section 72 of the *Act*, I award the recovery of the filing fee in the amount of \$100.00. The Landlord is awarded a Monetary Order in the amount of \$312.63.

### Conclusion

Pursuant to Sections 67 and 72 of the *Act*, I grant the Landlord a **Monetary Order** in the amount of **\$312.63** as outlined above. The Landlord is provided with this Order in the above terms and the Tenant must be served with as soon as possible. Should the Tenant fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial 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: May 10, 2019

---

Residential Tenancy Branch