

## Residential Tenancies Tribunal

Application [REDACTED]

Decision 21-0019-01

John R. Cook  
Adjudicator

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### Introduction

1. The hearing was called at 9:40 am on 21 July 2021 via teleconference.
2. The applicants, [REDACTED] and [REDACTED] hereinafter referred to as “tenant1” and “tenant2”, respectively, participated in the hearing.
3. The respondent, [REDACTED] was represented at the hearing by [REDACTED] hereinafter referred to as “the landlord”.

### Issues before the Tribunal

4. The tenants are seeking the following:
  - a. An order for compensation for inconvenience in the amount of \$575.00;
  - b. An order that repairs be carried out at the rental unit; and
  - c. An order that rent be reduced by \$150.00, until those repairs are completed.

### Legislation and Policy

5. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
6. Also relevant and considered in this case is section 10 of the *Residential Tenancies Act, 2018* and Policy 9-5: Life Expectancy of Property.

**Issue 1: Washing Machine Replacement**

**Issue 2: \$150.00 Rent Reduction**

**Issue 3: Compensation for Inconvenience - \$575.00**

## Relevant Submissions

### The Tenant's Position

7. Tenant1 stated that she had entered into a 6-month, fixed-term lease with [REDACTED] commencing 15 May 2020. The agreed rent was set at \$1500.00 per month and tenant1 stated that she had paid a security deposit of \$750.00 on 20 April 2020. [REDACTED] signed over ownership to his mother some months later and the landlord now manages the property.
8. The rental unit is a furnished house, and included in the furnishings was a washer and dryer.
9. Tenant1 stated that in the fall of 2020, she noticed that the washing machine was getting progressively louder and she brought her concerns to the landlord on several occasions. She testified that the landlord did not address those concerns and in May 2021 the washing machine stopped working altogether. Tenant1 stated that the landlord refuses to replace the washing machine and she had been unable to wash her cloths at her rental unit since that time.
10. The tenants are seeking an order requiring that the landlord replace that washing machine and they are also seeking an order for the rent to be reduced by \$150.00 per month until that appliance is replaced.
11. In addition to the request for an order for a reduction in rent, the tenants are also seeking compensation for the inconvenience they suffered in having to do her laundry elsewhere.
12. Tenant1 stated that the rental unit is located in [REDACTED] and that there are no laundromats in that town. She stated that the closest laundromat is located in [REDACTED] which is an 80 minute return trip. She complained, though, that in early June 2021, there was a COVID outbreak in that part of the province, and she was not permitted to travel to that town. Instead, she travelled to friends and family that lived on [REDACTED] and in [REDACTED]. These communities are about 1.5 hours away by car. Tenant1 stated that she earns \$100.00 per hour at her job, and she is seeking compensation at that rate for these 2 trips. That claim comes to \$600.00. She is also seeking \$25.00 for the costs of the gasoline she used during those trips.
13. The tenants claimed that if they visited a laundromat, it would cost \$4.00 per load of laundry and they figured that they would have to do about 5 loads each, per week. They calculate that they are therefore entitled to \$50.00 per week for the costs of visiting laundromats. To the date of the hearing, that claim comes to \$450.00 (9 weeks x \$50.00 per week).
14. Tenant1 also stated that they had been washing their clothes in the bathtub at the rental property, and she claimed that it takes approximately 30 minutes to physically wash 1 load in the tub. The tenants are also seeking compensation for

their personal labour, at a rate of \$100.00 per hour, and tenant1 calculated that they are entitled to \$1400.00 in compensation.

15. The tenants also pointed out that if they had to purchase their own, second-hand washing machine as a replacement, it would cost them around \$300.00.

### The Landlord's Position

16. The landlord did not dispute the tenants' claim that the washing machine is no longer working and she acknowledged that she had refused the tenants' request to have it replaced.
17. The landlord stated that it is policy with her company that they will no longer repair or replace washing machines at their rental properties if they happen to malfunction.
18. The landlord also pointed out that the fixed-term agreement the tenant had entered into with ■ had expired after 6 months, and there was no new written contract drafted indicating that the landlord would furnish the rental property with a washing machine.
19. The landlord made no comments on the tenants' claim for a reduction of rent, but she did contest their claim for compensation for inconvenience and argued that the amount sought by the tenants was excessive. Although the tenants were not making a claim for the costs of replacing the washing machine, the landlord pointed out that according to their own evidence, a replacement would have cost them \$300.00. She argued that it does not make sense that a replacement would have only cost \$300.00 while their claim for inconvenience is in excess of \$2400.00.

### **Analysis**

20. Statutory condition 1, set out in section 10.(1) of the *Residential Tenancies Act, 2018* states:

#### ***Statutory conditions***

***10. (1) Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:***

##### ***1. Obligation of the Landlord -***

***(a) The Landlord shall maintain the residential premises in a good state of repair and fit for habitation during the tenancy and shall comply with a law respecting health, safety or housing.***

*(b) Paragraph (a) applies regardless of whether, when the landlord and tenant entered into the rental agreement, the tenant had knowledge of a state of non-repair, unfitness for habitation or contravention of a law respecting health, safety or housing in the residential premises.*

21. There is no dispute that the washing machine that the landlord had supplied to the tenants had malfunctioned and that since May 2021 it was no longer operational.
22. As the rental agreement the tenants had entered into in May 2020 was for a furnished apartment, I find that the rent the tenants are paying to the landlord includes the provision of a washing machine. Although the original 6-month lease had expired, no evidence was presented to establish that after those 6 months there had been any agreed revisions to that contract and I find that the landlord continues to be responsible for furnishing that unit with a washing machine that is in good working order.
23. As that washing machine is not in a good state of repair and needs replacing, I find that the landlord is in breach of statutory condition 1, quoted above.
24. Section 47 of the *Residential Tenancies Act, 2018* outlines the following powers of the director:

***Order of director***

***47. (1) After hearing an application the director may make an order***

*(a) determining the rights and obligations of a landlord and tenant;*

...

*(c) requiring a landlord or tenant who has contravened an obligation of a rental agreement to comply with or perform the obligation;*

...

*(h) directing a landlord to pay to a tenant an amount as compensation for inconvenience as a result of a contravention of this Act or the rental agreement, and authorizing the tenant to offset that amount against future rent;*

...

*(p) imposing terms and conditions the director considers appropriate, including terms and conditions to ensure compliance with this Act and the rental agreement*

25. With respect to the costs the tenants are seeking here, though, I agree with the landlord that those costs are excessive, and for the following reasons.
26. Firstly, policy with this Section is that an applicant may claim up to \$20.15 per hour for their personal labour. A rate of \$100.00 per hour to travel and wash clothes far exceeds that prescribed rate.
27. And secondly, I am of the view that it would be unfair to allow the tenants both their claim for a reduction of rent and their claim for compensation for inconvenience. They are effectively identical issues. That is, the reason a tenant would succeed in being awarded a reduction in rent is because they have established that they have been inconvenienced by the loss of a service or privilege and that they have incurred costs as a result. The reduction in rent is the compensation.
28. Nevertheless, given that there is no laundromat in [REDACTED], I find that the inconvenience of being without a washing machine was particularly trying and believe that the total monthly reduction in rent, in compensation for not having a washing machine, should be increased slightly higher than the tenants have claimed.
29. Based on the foregoing, I make the following orders:

#### **Decision**

30. The landlord shall supply the tenants with a replacement washing machine that is in good working order.
31. Once the landlord has replaced the tenants' washing machine, she is to provide the Residential Tenancies Section with an affidavit to that effect along with a receipt for the replacement washing machine.
32. The tenants' rent for May, June, July and August 2021, is retroactively reduced by \$200.00 per month, a total of \$800.00. That \$800.00 shall be deducted from the rent that is owing for September 2021.
33. Commencing September 2021, the tenants' rent will continue to be reduced by \$200.00 per month until they are ordered by this Section to resume paying the originally agreed amount of \$1500.00.

#### **Issue 4: Hearing Expenses**

34. The tenants' submitted a hearing expense claim form and a receipt showing that they had paid a fee of \$20.00 to file this application, a receipt showing that they had paid \$16.88 to send the application to the landlord by registered mail and a receipt showing that they were charged \$20.00 to have their affidavit signed by a

commissioner of oaths. As the tenant's claim has been successful, the landlord shall pay those hearing expenses.

### Summary of Decision

35. The landlord shall supply the tenants with a washing machine that is in good working order.
36. Once the landlord has replaced the tenant's washing machine, she is to provide the Residential Tenancies Section with an affidavit to that effect along with a receipt for the replacement washing machine.
37. Commencing September 2021, the monthly rent is reduced by \$200.00, to \$1300.00, until such time that the tenants are ordered by the Director of Residential Tenancies to resume paying the originally agreed amount of \$1500.00.
38. Additionally, the rent for September 2021 is reduced by a further \$800.00 as a retroactive rent reduction for May, June, July and August 2021. September's rent is also reduced by \$56.88 to cover the tenants' hearing expenses.

24 August 2021

Date

  
John R. Cook  
Residential Tenancies Tribunal