



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards  
Ministry of Housing and Social Development

## Decision

Dispute Codes: OPC MNDC RP FF

## Introduction

This hearing dealt with an application by the landlord for an order of possession and a monetary order, and an application by the tenants for an order for repairs and a monetary order.

## Issue(s) to be Decided

Is the landlord entitled to an order of possession?

Should the landlord be ordered to conduct repairs?

Is the landlord entitled to a monetary order for the unpaid utilities as claimed?

Are the tenants entitled to monetary compensation as claimed?

## Background and Evidence

The tenancy began on June 1, 2008, with monthly rent in the amount of \$800 plus half of the utilities. At the outset of the tenancy the rental unit had some deficiencies that required repairs, but the tenants were under the impression that the landlord intended to quickly address those deficiencies, including a gaping hole directly in front of the main entrance to the rental unit, a bathroom door that was not installed, closet doors were falling off the hinges, and the shower was not sloped properly to drain.

On July 9, 2008 a water pipe burst in the rental unit and caused a flood and significant damage. The landlord was out of town and the landlord's agent did not deal

immediately with the problem, so as a result one of the two tenants missed 5 hours of work on that date to deal with the flood. Over the course of several weeks following this event, contractors attended at the rental unit on several occasions to conduct necessary repairs. The tenants became quite upset with the conditions they were living in, the slow progress of the repairs, and the extent to which they were expected to cooperate with the contractors to move their possessions out of the way. The landlord became frustrated with the tenants' actions preventing the repairs from being carried out, and on August 31, 2008 the landlord served the tenants with a one month notice to end tenancy for cause. The notice indicates that the reason the landlord sought to end the tenancy was that the tenants had put the landlord's property at significant risk.

The landlord did not carry out all of the repairs related to the flood for approximately two months, and the tenants claimed that during this time they only had use of approximately half of the rental unit. During that time the tenants also had concerns about their children's safety in the rental unit while repairs were unfinished. The items that needed repair at the outset of the tenancy still had not been addressed by the date of the hearing, and a guest of the tenants injured himself when he accidentally stepped into the hole outside the main entrance.

The landlord seeks an order of possession based on the notice and a monetary order for outstanding utilities in the amount of \$167.57. The tenants did not apply to cancel the notice. They claim monetary compensation as follows: \$145.80 for lost wages on July 9, 2008 and \$800 for compensation for loss of use of half of their rental unit for two months. Both parties seek recovery of their respective filing fees.

### Analysis

In regard to the notice to end tenancy, the tenants did not dispute the notice and they are therefore conclusively presumed to have accepted that the tenancy ended on the effective date of the notice. The landlord is therefore entitled to an order of possession.

As the tenancy has ended, I do not find it is necessary to order that the landlord conduct

repairs.

I accept the landlord's submissions regarding the outstanding utilities bills, and find that the landlord is entitled to the amount claimed of \$167.57. As the landlord was successful in her application, she is also entitled to recovery of the \$50 filing fee, for a total claim of \$217.57.

In regard to the tenants' claims, I find as follows. The tenants did not provide sufficient evidence to establish that it was necessary for the one tenant to miss 5 hours of work on the date of the flood, and I therefore dismiss that portion of the tenants' claim. In regard to the remainder of the tenants' claim, I find that the tenant did have to live in less than adequate conditions, particularly during the two months following the flood. However, I also find that the tenants' actions in preventing the contractors from completing repairs in a timely fashion contributed to the length of time that the tenants had to live without a fully useable rental unit. I therefore find that the tenants are entitled to compensation in the amount of \$200, representing half the rent for two weeks following the flood. As the tenants were partially successful in their application, I find that they are entitled to recovery of half of their filing fee, in the amount of \$25, for a total claim of \$225.

### Conclusion

I grant the landlord an order of possession effective two days after service. The tenants must be served with the order of possession. Should the tenants fail to comply with the order, the order may be filed in the Supreme Court of British Columbia and enforced as an order of that Court.

After deducting the landlord's award of \$217.57, the tenants would be entitled to a total award of \$7.43. I decline to issue a monetary award for this minimal amount.

Dated October 22, 2008.

