



Dispute Resolution Services

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

Decision

Dispute Codes: MNDC, OLC, FF

Introduction

This hearing dealt with an application by the tenant for a monetary order and an order that the landlord comply with the Act. Both parties participated in the conference call hearing and had opportunity to be heard.

Issue(s) to be Decided

Is the tenant entitled to a monetary order?

Background and Evidence

The tenant testified that in the month of April, he and his wife were both so ill that they were unable to work on a home they were trying to renovate in order to sell. The tenant further testified that he is a provider of naturopathic medicine and that through the use of biofeedback he discovered that his illness was as a result of prolonged exposure to molds and fungi. The tenant testified that using naturopathic methods he and his wife were able to fully restore their health and that some months later, when a leak was discovered behind their shower, a plumber attended and opened the wall to reveal an extensive growth of fungus. The tenants seek compensation for that period of time in which they were unable to work on renovating their home and claim that for 25 days they would have paid workmen approximately \$25.00 per hour for 8 hour days to work on the renovations for a total cost of \$5,000.00. The tenant claimed that he was unable to market his home as early as he had hoped which has resulted in a loss as the value of houses in the area has been declining over the past several months.

Analysis

In order to be successful in their claim, the tenants must prove on the balance of probabilities that their illness was a direct result of the landlord's failure to maintain the

property and that loss resulted from that failure. I find that the tenants have not met their burden on either count. The tenant provided no supporting evidence to show that he was ill during the month of April and the only medical evidence was his own testimony in which he claimed to be an expert in the field of naturopathic medicine. The tenant provided no proof that he has such expertise and no documentation supporting his claim that his illness resulted from the specific fungi he alleges was found in the bathroom. Further, the tenant provided no proof that fungus was growing in the wall behind the bathroom and no expert evidence showing that the particular fungus to which he alleges he was exposed would cause the symptoms he claims to have suffered. The tenant further failed to prove the quantum of his loss and even if he had, I find that the loss claimed is too remote. I further find that there is no evidence that the tenant attempted to mitigate his alleged loss.

Conclusion

The tenants' claim is dismissed.

Dated October 24, 2008.