

DECISION

Dispute Codes:

MNDC, RR, RP, FF

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenant has made application for compensation for damage or loss, that the landlord make repairs to the rental unit, that the tenant be allowed to reduce rent for repairs not provided and to recover the filing fee from the landlord for the cost of this Application for Dispute Resolution.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing.

Evidence submitted by the tenant to the Residential Tenancy Branch on April 14, 2010, was not as considered as I determined it was not served to the landlord. The tenant was at liberty to provide testimony in relation to that evidence.

Issue(s) to be Decided

Is the tenant entitled to compensation in the sum of \$2,340.00?

Must the landlord be ordered to complete repairs?

May the tenant deduct from rent owed in compensation for repairs not completed?

Is the tenant entitled to filing fee costs?

Background and Evidence

The tenancy commenced in August 2009. Rent is \$900.00 per month, due on the first day of each month.

In March 2010, repairs were made to the roof of the rental unit. On March 26, 2010, the tenant came home at 3 a.m. to find a leak in his bedroom ceiling. The tenant could not

reach anyone at that time of night, so he placed his mattress against the wall and a bucket under the leak.

The tenant is claiming compensation as follows:

Replace bed	1,420.00
	2,320.00

The tenant wants the landlord to complete repairs as follows:

- Paint the stain on the bedroom ceiling;
- Repair dining room fixture and replace bulbs; and
- Repair the broken hallway fixture.

The amount detailed in the dispute section of the Application differs from the amount of monetary Order requested by \$20.00; the amount paid for parking each month.

The tenant felt the landlord was dismissive of his concern that the leak caused damage to his mattress, due to water falling on the mattress. The tenant confirmed that on March 27, 2010, the landlord came to view the ceiling but offered him no assistance with his bed.

The tenant is claiming the loss of his bedroom for a month and replacement of his bed. The tenant has been able to use his room, but finds that without use of his bed that the room has no value.

The tenant provided photographs showing the areas that he wants the landlord to repair.

The landlord entered the unit on March 27 and suspected that the heating system may have caused the leak, as the section of roof over the tenant's unit had already been replaced. On March 27, 2010; the tenant was told to call his insurance company.

The tenant's insurance company denied his claim for mattress replacement.

On March 29, 2010, the landlord entered the rental unit, to check for further leaks, as the heating unit on the roof had been inspected and a bleeder valve replaced on that date.

On April 7, 2010, the landlord had given the tenant written notice they would enter the unit on April 8 to check the ceiling stain in the bedroom; the ceiling was washed.

On April 12, 2010, the tenant gave the landlord a letter requesting a new mattress and ceiling repair, and on the same day the landlord gave the tenant another notice of entry for the 13th, in order to have a carpet cleaning company clean the mattress and complete ceiling repairs. The tenant denied the landlord access and refused the offer of

cleaning, as he felt the mattress could not be properly cleaned. The tenant told the landlord that they could not enter the rental unit until the matter had been heard through the dispute resolution process.

During the hearing the landlord offered the tenant compensation equivalent to one day's rent in the sum of \$29.58, which the tenant rejected.

The tenant felt that this matter was very personal and that the landlord had not responded to the situation appropriately. The tenant wants a new mattress as he submits it is not possible to clean a mattress and restore it properly.

The landlord submitted that the tenant's claim for the cost of a completely new bed is excessive. The tenant provided a receipt for his bed, box spring and mattress purchased on November 15, 2007 in the sum of \$1,419.14.

The landlord confirmed they will enter the rental unit to complete the repairs requested by the tenant.

Analysis

Section 7 of the Act requires a claimant to mitigate any loss that they may claim; in other words, a claimant must do whatever is reasonable to minimize the amount they seek in compensation.

It is not disputed that a ceiling leak occurred and that the landlord responded the morning after the leak occurred. I find that this was not an emergency as the tenant was able to move his bed the next day and no further water leaked into the suite. It was an inconvenience to the tenant.

I find that the landlord did mitigate their potential loss by responding quickly, by having the heating system repaired and by checking for further leaks. Once the landlord received a written request by the tenant for mattress replacement and repair of the ceiling the landlord responded in an attempt to enter the suite the next day to have the mattress professionally cleaned and to repair the ceiling.

When the tenant denied the landlord access to the rental unit the tenant effectively thwarted the landlord's efforts to address the situation and to mitigate any claim the tenant might make. By denying the landlord access to the rental unit, the landlord could not even attempt to restore the mattress and complete repairs.

I find that the tenant's claim for mattress and bed replacement is dismissed and I base this decision on the failure of the tenant to allow the landlord to attempt to restore the mattress by cleaning. The tenant has provided no evidence that a mattress cannot be cleaned. If the mattress had been cleaned and that cleaning was found to be

inadequate, then the tenant may have been able to establish a claim that a mattress cannot be cleaned as valid.

The landlord may give the tenant proper notice of entry as provided by section 29 of the Act, in order that they may complete the necessary repairs. There is no evidence before me that prior requests had been made to the landlord for fixture repairs; however the landlord has agreed to promptly investigate those repairs and have them completed within a reasonable period of time.

As the tenant denied the landlord an opportunity to mitigate any loss; I dismiss the tenant's claim for compensation or rent reduction. I find that the tenant did have use of his bedroom and that his decision to reject the offer to complete cleaning of the mattress was a decision that resulted in no possibility of an attempt by the landlord to resolve the problem. Further, I find that the claim for loss in the sum equivalent to one month's rent plus parking, even if there was a loss to the tenant, is beyond any amount that could be expected if the tenant had been denied access to the bedroom.

I dismiss the portion of the claim for parking, as the tenant continued to have use of his parking stall.

I deny the tenant filing fee costs, as his claim does not have merit.

Conclusion

The tenant's Application is dismissed.

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 25, 2010.

Dispute Resolution Officer