

## **DECISION**

Dispute Codes      MNDC, OLC, ERP, RP, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution for a monetary order and for an order to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement and to make repairs.

The hearing was conducted via teleconference and was attended by the tenant and the landlord's agent.

### Issues(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order to have the landlord complete repairs; to a monetary order for compensation for loss of quiet enjoyment of the rental unit; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to sections 28, 32, 67, and 72 of the *Act*.

### Background and Evidence

The tenancy began in August 2005 for a current monthly rent of \$1,315.88 as a month to month tenancy. The tenant noted a load squeaking or screeching noise approximately 3 years ago and originally thought it was the venting system on the roof. Two years ago the tenant discovered the noise was coming from a parapet wall that was swaying in the wind.

The tenant submitted into evidence the following documents:

- A summary of events including a breakdown of the tenant's claim for loss of quiet enjoyment in the equivalent amount of 1/3 of month's rent for 6 months in 2009 (\$2,537.88) and 3 months in 2010 (\$1,315.88);
- Witness statements from two people who have visited the tenant over the last few years;
- Copies of several notices from the landlord to enter the rental unit in relation to roofing problems dating from January 2008 to June 2010;
- A copy of a Work Order Request from the tenant to the property manager dated April 29, 2009 requesting, among other items, repairs to the parapet wall; and
- Copies of rent increase notifications for the years commencing January 1, 2009 and January 1, 2010.

The tenant testified that despite making these complaints verbally and in writing since 2008, the landlord has failed to complete repairs to the roof or the parapet wall until recently the roof is currently under repair. The tenant also testified that she had never

once been informed regarding any investigation the landlord may have completed or what course of action was going to be taken by the landlord.

The landlord's agent testified that in January and October 2008 the landlord had sought advice from two separate and independent contractors regarding solutions to the roof and parapet wall problem. According to the agent's testimony the contractors both advised that the movement of the parapet wall is something that would be expected and that any actions to stabilize the wall would likely cause more damage to the roof.

The agent went on to confirm that the roof has been patched and the ceiling below this section of the roof is currently being repaired and repairs to stabilize the parapet wall should be complete within the next week or two. The agent testified that the landlord felt that they had done everything that they could to address the issue and that if this attempt was not successful they would look at other alternatives.

### Analysis

Section 32 of the *Act* requires a landlord to maintain a residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

I am satisfied the tenant provided sufficient notification to the landlord of the problems with the parapet wall and leaking roof over a very prolonged period of time, at least two years. I also am satisfied the tenant was not made aware of the results of the landlord's investigation of what could be done leading to the tenant's anxiety over these issues.

In the absence of any documentary evidence from the landlord supporting the reports from two contractors who inspected the roof/parapet wall and advised that stabilizing the wall would lead to further problems and acknowledging that these inspections were conducted 10 months apart and that nothing else has been done until June 2010, I am not convinced the landlord acted within a reasonable time to address the problems.

I accept that the tenant suffered a loss of quiet enjoyment and a loss in the value of the tenancy as a direct result of the landlord's inaction and find the tenant's estimate of the value of that loss is reasonable.

I also accept that the landlord is now working on correcting the specific problems with the leaking ceiling and the parapet wall and the work should be complete within the next few weeks. I make no finding on any consequence to the landlord should this not be completed but note that the tenant is at liberty to file a new Application for Dispute Resolution should the landlord fail to complete the current action.

### Conclusion

I find that the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$3,904.00** comprised of \$3,854.00 compensation and the \$50.00 fee paid by the tenant for this application.

I order the tenant may deduct this amount from future rent payments until the full amount of compensation has been satisfied, in accordance with Section 72 (2)(a)

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: June 10, 2010.

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Dispute Resolution Officer