



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      CNR, DRI, ERP, MNDC, O, RPP

### Introduction

A substantial amount of documentary evidence and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issues(s) to be Decided

There were numerous issues put down on the application for dispute resolution, however by the time the hearing was held the tenant had vacated the rental unit, and therefore the only relevant issue now, is a request for a monetary order for \$2500.00.

### Background and Evidence

The applicant testified that:

- During the tenancy she had a substantial loss of use and enjoyment of the rental property due to numerous problems.
- There was a mouse infestation in the property during which time there were mice and mouse droppings everywhere, they even got into her furniture and destroyed it.
- There was a flea infestation during the tenancy.

- The lock on her rental unit was damaged during the tenancy and the landlord did not have it repaired
- Her peace was disrupted by another tenant in the rental unit who caused many problems such as:
  - noise coming from his suite
  - personal belongings damaged
  - blocking access to the utilities
  - harassment both physical and verbal
  - slamming doors at night time
  - inviting unknown and unwanted visitors
  - stalking me when I leave the building
  - leaving the bathroom filthy with urine left around the toilet
- She complained frequently to the landlord and the landlord told her that he would deal with the issues but never did, and as a result she had to call the police frequently.

The applicant is therefore requesting an order that the landlord pay her \$2500.00 as compensation for loss of use and enjoyment.

Agent for the respondent testified that:

- The tenant had no loss of use and enjoyment of her rental property and in fact had one of the nicest suites in the rental property.
- They believe this is just an attempt by the tenant to extort money from the landlord.
- The landlord was very attentive to the tenant's complaints and responded quickly.
- The landlord brought a locksmith when the tenant complained about her lock..

- Landlord brought an exterminator when the tenant complained about mice and the exterminator did not find a mouse infestation.
- The landlord went out of his way to help the tenant and even supplied meals to her on occasion.
- They believe the tenant called the police on numerous occasions in an attempt to establish evidence for future lawsuit against the landlord.

The respondents therefore believe that this claim has been fabricated, and should be dismissed in full.

## Analysis

The burden of proving a claim lies with the applicant and when it is just the applicant's word against that of the respondent that burden of proof is not met.

In this case it is basically just the tenant's word against that of the landlord and therefore it is my decision that the tenant has not met the burden of proving her claims.

The tenant has supplied very little evidence in support of her claims, and one of the letters she has supplied seems to support the landlord. She supplied a letter from an RCMP Const. that states in part "Ms. S. C. was advised by me I would no longer be investigating her allegations as a person on a warrant was arrested not at her residence and ***all information she has provided proved to be unreliable*** (my emphasis).

To establish a claim against the landlord for loss of use and enjoyment, the tenant would have to show not only that she had a loss of use and enjoyment, but that it was the result of the negligent or willful actions of the landlord, and in this case it is my decision that she has not established the above.



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It is my decision therefore that I will not issue any monetary order against the landlord for loss of use and enjoyment.

## Conclusion

This application is dismissed in full without leave to reapply.

(I informed the parties of my decision at the hearing at which time the tenants advocate stated they had a witness they wanted to call; however I did not hear any evidence from the witness as I had already given my decision. At the beginning of the hearing the tenants advocate had stated that they were hoping to call a witness but as yet their witness had not arrived, and at no point, prior to my issuing my decision, did the advocate inform me that their witness had arrived.)

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: October 04, 2010.

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Dispute Resolution Officer