



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing and Social Development

## **DECISION**

Dispute Codes      MNDC, FF, ERP, RP

### Introduction

This matter dealt with an application by the Tenant for emergency repairs for health and safety reasons, make repairs to the unit, compensation for damage or loss under the Act and the recovery of the Tenant's filing fee for this proceeding.

The Tenant said he served the Landlords with the Application and Notice of Hearing (the "hearing package") by personal delivery on September 14, 2010. Based on the evidence of the Tenant, I find that the Landlord was served with the Tenant's hearing package as required by s. 89 of the Act and the hearing proceeded with both parties in attendance.

### Issues(s) to be Decided

1. Is the Tenant entitled to compensation and if so how much?
2. Is the Tenant entitled to make emergency repairs and other repairs to the unit?

### Background and Evidence

This tenancy started in May 1, 2004 as a month to month tenancy. Rent is \$500.00 per month payable in advance of the 1<sup>st</sup> day of each month. The Tenant paid a security deposit of \$250.00 on April 15, 2004.

The Tenant started his testimony by referring to a letter he submitted in the evidence that indicated he was withdrawing the claim for emergency repairs for health and safety reasons and to make repairs to the unit as he was moving out of the unit and these claims no longer apply. He said he wanted to continue with the compensation claim for damage and loss as a result of a leaking water pipe in his rental unit.

The Tenant said there were two incidents involving the leaking pipe in the bedroom of the rental unit. The first incident was in August, 2009 when the water pipe that ran through the Tenant's bedroom started to leak. The Tenant said it leaked approximately 1 to 10 litres of water per day. The Tenant said he phoned the Landlord and informed him that the pipe was leaking and that he was leaving the country for approximately 1 month. He said the Landlord said he would fix the leak while he was away. The Tenant made arrangements with 2 of his friends to watch the leak and empty the buckets that were catching the leaking water. When the Tenant returned to the unit he said nothing



# Dispute Resolution Services

Page: 2

Residential Tenancy Branch  
Ministry of Housing and Social Development

had been done and the water had leaked throughout the bedroom and had damaged the ceiling. The Tenant continued to say that he called the Landlord and told him the situation was a health hazard and he needed to fix it. The Tenant said he removed the damaged carpet and some drywall that was wet in order to reduce the immediate health risks of mold developing. After this phone call the Tenant said the Landlord did started the repairs in October, 2009, but left much of the organizing and work for the repairs for the Tenant to do. There was no agreement that the Tenant would do the repairs he was just trying to help. The Tenant said he thought this was the only way the repairs were going to be completed. The repairs were completed by November 30, 2009. The Tenant said he took time off from work to assist in the repairs and to organize the tradesmen. He said he was not claiming for the time he took off from his work in this application. As well, the Tenant said he spent a lot of time cleaning up the water damage and emptying pales. The Tenant said he lost the use of the bedroom for 4 months and the use of the rest of the unit was compromised as he had his bedroom furniture in the living room. .

The second incident started July 5, 2010 and was again water leaking from the same pipe. The Tenant said the leak started slowly and then increased to approximately 3 to 25 litres per day by September 9, 2010. The Tenant said he called the Landlord to fix the leak. The Landlord did not respond to his call and the pipe is still leaking. The Tenant continued to say that the water did not go into the living room or kitchen, so he again moved his bed and bedroom furniture into the living room. He said he is living in the living room again. The Tenant concluded that he lived in the unit without a bedroom and had compromised use of the living room from and August, 2009 to November 30, 2009 and from September 9, 2010 to October 31, 2010 which is the end of the tenancy.

The Tenant continued to say the Tenancy is ending due to the Landlord issuing a 2 Month Notice to End Tenancy for Landlord's Use of the Property dated September 17, 2010 and having an effective date of December 1, 2010. The Tenant said the Landlord has agreed to give him the equivalent of one month's rent (\$500.00) as specified in section 51(1) of the Act for issuing an End on Tenancy Notice for Landlord's Use. As well, the Tenant is applying for the return of his security deposit of \$250.00 and accrued interest on the security deposit as specified in the Residential Tenancy Act. The Tenant's monetary claim for compensation for damage or loss under the Act, regulations or the tenancy agreement is as follows:

## First water leak incident

Four months rent	$\$500.00 \times 4 =$	\$2,000.00	
Filing Fee		<u>\$ 50.00</u>	
Subtotal			<u>\$2,050.00</u>



# Dispute Resolution Services

Page: 3

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Second water leak incident

September 9 to October 31, 2010, rent (75% of \$500.00)	\$ 375.00	
October, 2010 rent \$500.00	<u>\$ 500.00</u>	
Subtotal		<u>\$ 875.00</u>

## Equivalent of one month's rent due to Notice to End Tenancy.

Security Deposit	<u>\$ 275.00</u>	
Subtotal		<u>\$ 775.00</u>

Total \$3,700.00

The Landlord said that he agreed the Tenant's testimony. He continued to say that the Landlord's company submitted a letter dated October 1, 2010 offering 1/3 of the four months rent in the amount of \$667.00 and the filing fee of \$50.00 as full settlement. The Landlord said the Tenant still had the use of 2/3 of the rental unit; therefore the claim should be based on the loss of use of the bedroom or 1/3 of the unit not the whole unit as requested by the Tenant.

The Landlord continued to say that he was only authorized to offer the amount in the letter and he would have to discuss the Tenant's additional claims for the second incident with the company for a decision.

The Landlord said he had a good relationship with the Tenant and it had been a good tenancy. The Landlord continued to say that the Tenant did organize some of the repairs to the rental unit as the Landlord thought it would be easier for the Tenant to do it rather than the Landlord. The Landlord did not dispute the Tenant's testimony of taking off time from work to assist in the repairs at the rental unit. The Landlord did say that some of the repairs were done after normal working hours.

In addition the Landlord said the Notice to End Tenancy for Landlord's Use issued to the Tenant was done so that the Landlord's company can make repairs to the building.

## Analysis

Section 32 (1) A landlord must provide and maintain residential property in a state of decoration and repair that;

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, make it suitable for occupation by a tenant.

The Landlord said that he agrees with the Tenant's testimony and the evidence submitted by the Tenant. The testimony and evidence shows that the bedroom of the rental unit was uninhabitable during the time period that the water pipe was leaking. As well the Tenant had to move his bedroom furniture into the living room, which compromised the use of the living room. As well, it appears from the testimony that the Tenant was burdened with the clean up and some of the organizing of the repairs of the damage caused by the leaking water pipe. I find that the Tenant does have a legitimate claim for loss and/or damages. In addition the Landlord was informed of the problems by the Tenant and the Landlord neglected to address the issues in a timely manor. I find the Landlord did not comply with section 32 (1) (a) and (b) of the Act. Consequently, I find in favour of the Tenant and I order the Landlord to pay the following loss and/or damages to the Tenant;

1. As the tenant was not able to use the bedroom and the use of the living room was compromised, I find compensation in the amount of 2/3 of the rent for 6 month, August, September, October and November, 2009 and September and October, 2010. (2/3 X \$500.00 X 6 months)	\$ 2,000.00
2. Nuisance and loss of peaceful enjoyment of the rental unit. (\$100.00 per month for 6 months)	\$ 600.00
5. The equivalent of 1 months rent (\$500.00) due to the Notice to End Tenancy as per section 51(1) of the Act	\$ 500.00
6. The return of the Tenant's security deposit	\$ 250.00
7. Accrued interest on the deposit from April 15, 2004	\$ 8.87
<b>Total</b>	<b>\$ 3,358.87</b>

As the Tenant has been successful in this matter, he is also entitled to recover from the Landlord the \$50.00 filing fee for this proceeding. The Tenant will receive a monetary order for the balance owing in an amount of \$3,358.87 for damages/loss plus the \$50.00 filing fee for this proceeding, totalling \$3,408.87.



# Dispute Resolution Services

Page: 5

Residential Tenancy Branch  
Ministry of Housing and Social Development

## Conclusion

A Monetary Order in the amount of \$3,408.87 has been issued to the Tenant. A copy of the Orders must be served on the Landlord: the Monetary Order may be enforced in the Provincial (Small Claims) Court of British Columbia.

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*.

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Dispute Resolution Officer