



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## **DECISION**

Dispute Codes      MNDC, RP

### Introduction

This hearing dealt with 9 joined tenant Applications for Dispute Resolution seeking a monetary order and an order to have the landlord make repairs.

The hearing was conducted via teleconference and was attended by the tenant's agent, 4 of the applicant tenants and the landlord's agent.

At the outset of the hearing the tenant's agent noted that she had received the landlord's evidence and had been able to prepare her responses but that she had not had an opportunity to go over the evidence with the tenants prior to the hearing. The hearing paused for a few minutes for the agent to discuss the evidence with the tenants.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to a monetary order for compensation for loss or damages under the *Residential Tenancy Act (Act)*, regulation or tenancy agreement and for an order to have the landlord make repairs, pursuant to Sections 32, 67, and 72 of the *Act*.

### Background and Evidence

The tenants contend that all tenants in the residential property have experienced an inability to have hot water provided for various periods of time over the past several months. Specifically there was a time ending on or near October 14, 2010 that all of the named tenants had no hot water for a period of nearly one month.

The tenants acknowledge they cannot be more specific in the time frame but that during this time they were unable to get any hot water to have showers or to wash dishes or any other need. The tenants also contend there were also times that they had no water at all and they believe that this was likely when there was working being done on the hot water heaters.

The tenants state that they believe the twin hot water tank system is more suited to a single family dwelling application as opposed to a multiple family dwelling. The tenants are seeking compensation in the amount \$170.00 for the loss of the service of hot water for a period of one month. The tenants state this amount was determined because it

represents an approximate value of ½ month's rent for most of the applicants and an approximate value of the loss of value in their tenancy for this period.

Three of the tenants in attendance at the hearing testified that they either reported the lack of hot water problems to the onsite managers (both of whom no longer work for the landlord) or directly to the head office manager.

The landlord acknowledges there had been a hot water tank problem in September 2010 that was noticed by the then onsite manager and someone was called in to make repairs. The landlord states the repairs were made between September 13, 2010 and September 29, 2010. The landlord testified that no notice was given to the tenants about the repairs or that as a result of the problems with the tanks that there would be reduced capacity.

The landlord testified that the problem was with one tank only and that the design of the twin tank system allows for the still working tank to provide sufficient hot water for the residential property but that it would just take longer to get hot.

The landlord submitted into evidence a written statement from the person hired to complete the work who confirms that the hot water was available but that it would take longer to "come on" when only one tank was working.

The landlord has also submitted a letter from the head office manager who states that no tenant identified any hot water problems to him or to either of the onsite managers and that it was one of the onsite managers who identified the problem in the first place. The head office manager did not attend the hearing.

The landlord also provided two reports from separate plumbers showing in one report that there is a minor problem remaining with the system. The landlord testified they are still investigating and seeking a second opinion on this matter before deciding how to proceed.

## Analysis

While the tenants assert that the landlord has terminated or restricted a service or facility that is essential to the tenants' use of the rental unit as living accommodation, I find they have failed to establish that the landlord has restricted a service.

However, the landlord acknowledges that there have been problems with the hot water tank and Section 32 requires the landlord to provide and maintain a residential property in a state of repair and decoration that having regards for the age, character and location makes it suitable for occupation by a tenant.

I accept the tenants' position that the provision of hot water is essential to make a rental unit or a residential property suitable for occupation. I also accept that the tenants informed the landlord's agents on many occasions that they had no hot water.

However, as the tenants are not able to provide an accurate accounting of time lines for both the discovery of the problems and the reporting of the problems to the landlord I find that the landlord has taken reasonable steps to ensure that hot water is provided.

As to the tenants request to have the landlord install a more suitable hot water heating system, I find the tenants have failed to establish that the current system is inadequate for the property and the number of rental units it provides for.

To be successful in a claim for compensation for loss or damages the party making the claim must provide sufficient evidence to establish the following four points:

1. A loss or damage exists;
2. The loss or damage results from a violation of the *Act*, regulations or tenancy agreement;
3. The value of that loss; and
4. What steps were taken to mitigate and loss or damage.

In this case, I find that the tenants suffered a loss of use of the full amenities of their rental unit and that although the loss was not necessarily caused by any overt actions by the landlord the landlord did fail maintain the property in a manner the made the units suitable for occupation.

Despite the landlord's written submission by the head office manager, I accept the testimony of the tenants who indicated that they reported the hot water problems to various agents of the landlord and so took all reasonable steps available to them to mitigate the loss.

As to the value of the loss, I am not persuaded that the tenants suffered a loss equal to the value of ½ month's rent and I am not convinced that the problems persisted for as long as estimated by the tenants. In fact, I accept the landlord's evidence that stipulates that the repairs were completed by the end of September 2010. For these reasons, I find a reasonable valuation of the loss to be \$50.00 per tenant.



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## Conclusion

I find that each tenant applicant is entitled to monetary compensation pursuant to Section 67 and I grant a monetary order in the amount of **\$50.00**.

This order must be served on the landlord and may be filed in the Provincial Court (Small Claims) and enforced as an order of that Court.

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: January 12, 2011.

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Residential Tenancy Branch