



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

**Dispute Codes:** *MNDC, RP, LRE, FF*

### **Introduction**

This hearing dealt with an application by the tenant pursuant to the *Residential Tenancy Act* for a monetary order for compensation, for an order to direct the landlord to make repairs and to set conditions on the landlord's right to enter the rental unit. The tenant also applied for the recovery of his filing fee. Both parties attended the hearing and were given full opportunity to present evidence and make submissions.

### **Issues to be decided**

Is the tenant entitled to compensation? Did the landlord act in a responsible manner or was he negligent with regard to repairs? Is the tenant entitled to the recovery of the filing fee?

### **Background and Evidence**

The tenancy started on May 01, 2010. The monthly rent is \$950.00 payable on the first of the month. The rental unit is located in an apartment building.

The tenant stated that he spends a lot of time away from the rental unit. He returned on December 02, 2010 at about 8:30 in the morning and found that his apartment had suffered a leak from the unit above. The washroom was flooded and water spilled out onto the carpet in the hallway.

The landlord and the plumber were already in the building working to determine the cause of the leak. The drywall in the ceiling of the washroom in the rental unit was ripped open. The leak was found and taken care of. The hole in the ceiling was not closed and remains in the same condition up to the date of this hearing.

On December 09, 2010, the tenant filled out a work order request, asking the landlord to repair the ceiling, clean the washroom following the repair work and check the electrical systems as the breakers trip on a regular basis. The tenant stated that he did not hear back.

On January 02, 2011, the tenant filled out a second work order request for the same items. The tenant stated that in his absence around January 20, the landlord entered the rental unit without notice to conduct repairs.

The landlord stated that he did his best to resolve the issue of the plumbing and left the ceiling open to monitor the leak. He also stated that he got busy and therefore did not get it done. The landlord agreed to get the ceiling repaired immediately.

The tenant stated that since there is a gaping hole in the ceiling above the bathtub, his privacy is invaded, debris falls from the opening and he has to clean the bathtub prior to taking a bath. The tenant is claiming \$300.00 off his monthly rent for the months of December 2010 to June 2011.

### **Analysis**

Based on the sworn testimony of both parties I make the following findings:

Section 32 of the *Residential Tenancy Act*, speaks to the landlord and tenant obligation to repair and maintain the rental unit. The landlord must provide and maintain the rental property in a state of decoration and repair that complies with the health, safety and housing standards required by law. In this case, I find that the landlord fulfilled his obligations by acting on the emergency leak in a timely manner and making the necessary arrangements to fix the leak and restore services to the tenant.

However, the landlord failed to finish the repairs and left a large hole in the ceiling of the washroom, thereby causing the tenant inconvenience, added work of cleaning the bathtub regularly and a loss of privacy. Therefore I find that the value of the tenancy is diminished and that the tenant is entitled to some compensation.

In determining the amount by which the value of the tenancy has been reduced, I take into consideration the seriousness of the situation and the length of time over which the situation has existed.

In this case, the tenant has endured this inconvenience for seven months. The tenant provided two written requests to the landlord in December 2010 and January 2011. However since then the tenant has continued to occupy the rental unit for the past five months without either requesting that the landlord take action or applying for dispute resolution. I find that the tenant had full use of the washroom but suffered the inconvenience of the unsightly ceiling and debris falling off it. The tenant stated that he could see the base of the bathtub of the upper unit through the opening.

*Residential Tenancy Policy Guideline #16* states that an arbitrator may award “nominal damages” which are a minimal award. These damages may be awarded where there has been no significant loss, but they are an affirmation that there has been an infraction of a legal right.

Accordingly I award the tenant \$100.00 off his rent for each of the months for the period of December 2010 to June 2011 for a total of \$700.00. I also award the tenant the filing fee. The tenant may make a onetime deduction of \$750.00 off his rent for July 2011.

The landlord has agreed to the following:

- Immediately start repair work to the ceiling
- Complete the repairs by June 15, 2011
- Provide a 24 hours written notice to the tenant prior to entering the unit
- Check out the electrical system in the rental unit

### **Conclusion**

The tenant may make a onetime deduction of \$750.00 off his rent for July 2011. The tenant will pay \$200.00 for July 2011.

I order the landlord to carry out and complete the repairs to the ceiling by June 15, 2011.

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 07, 2011.

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Residential Tenancy Branch