



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, RR, FF

### Introduction

This hearing dealt with an application by the tenants for money owed or compensation for damage or loss, to allow a tenant to reduce rent for repairs and recovery of the filing fee. Both parties participated in the conference call hearing.

### Issue(s) to be Decided

Are the tenants entitled to any of the above under the Act.

### Background and Evidence

This tenancy began March 25, 2011 with monthly rent of \$1750.00 and the tenant's paid a security deposit of \$875.00.

The tenants testified that from the start of the tenancy they had numerous issues with the rental property which included no access to the kitchen, eating area, living room, family room and master bath due to a leak from the tub in the master bath, problems with all of the toilets, the garage door opener not working, smoke alarms not properly working and the back fence needing repair. On April 1, 2011 the tenants sent the landlord an extensive list of repairs that they were requesting the landlord address within 2 weeks along with a request that the April rent be discounted by \$875.00.

The tenants stated that the restoration company repairing the leak had covered the walls and floors with plastic sheeting and this stayed in place for 3 weeks making the rooms un-useable. The landlord refuted the tenants claim that these rooms could not be used for 3 weeks and that it was only 1.5 weeks and in some areas only a few days. The tenant later commented that the plastic was removed from the walls on March 28<sup>th</sup> and from the floors sometime between April 8<sup>th</sup> and 13<sup>th</sup>.

The tenants stated that they had been issues with all of the toilets at one time or another with the master bathroom toilet inaccessible as it had been removed for repair

of the tub, the main bath toilet would intermittently plug to the point of over flowing and the powder room toilet would not always flush. The landlord testified that they always responded to the tenant's calls to have the toilets repaired and that each time the repairs were completed within 2 to 3 days. The landlord stated that after the repairs had been completed they did not hear back from the tenants so that to the best of the landlord's knowledge the toilets were successfully repaired and properly functioning.

The tenants stated that the garage door opener would not work and the door had to be manually raised or the side door used and this had been a great inconvenience to the tenants as they had equipment and bicycles to put in the garage. The landlord responded that the garage door had been functioning at the start of the tenancy but that they did not get it repaired right away as the tenants still had access to the garage and the landlord was more concerned with urgent repairs such as the leak from the master bathroom and repair the toilets.

The tenants stated that when they moved in to the house there were 3 smoke alarms sitting on the kitchen counter. The tenants then bought new batteries for the smoke alarms and attempted to install them but the alarms kept chirping. The tenants contacted the landlord who brought an electrician to the house to check and install the alarms and maintain that it took the landlord 1.5 weeks to get the alarms installed and working. The landlord responded that she recalled only 1 smoke alarm on the counter and not 3 and believes that the alarms were repaired within a couple of days and not 1.5 weeks as stated by the tenant as this item does not appear on the tenant's April 1 list of required repairs that the landlord was given.

The tenants testified that the back fence required repair as some boards were missing and some of the top lattice pieces were broken. The tenants and landlord discussed repair of the fence at the start of the tenancy and the landlord told the tenants that repairs would be made when the weather got better but the repairs were not completed. The landlord did agree that they said the fence would be repaired when the weather was better but that they had not seen any urgency in getting the repairs completed as they were focusing on the urgent repairs.

The tenants stated that because of all of the issues with the rental property they made the decision to give the landlord written notice that they would be vacating on June 1, 2011 and vacated May 26, 2011. The tenants stated that they did not believe that the property had ever been properly maintained and that the landlord could afford to repair and maintain the property and this also played in to why the tenants gave notice.

The tenant's in this application are seeking the following in compensation:

- Repairs, light bulbs, rekeying locks: \$302.71
- April 2011, May 2011 Loss of peace and quiet enjoyment: \$825.00
- Loss of peace and quiet enjoyment: \$875.00
- Moving costs: \$450.00
- **Total compensation \$2452.71**

The landlord testified that they have always looked after the property and have never had issues with tenants in the past. The landlord stated that they have always been very responsive to requests for repairs from the tenants and never told the tenant's they could not afford to repair and maintain the property.

The landlord and tenant prior to this hearing agreed to a reimbursement of \$402.71 to the tenant for expenses and a \$100.00 credit on the first month's rent for the inconvenience of the tub repairs. The landlord deducted 1 days rent from the security deposit for the tenant over-holding.

The landlord brought up that the tenant has not paid the gas bill and the parties agreed to discuss that matter outside of this hearing.

### Analysis

Based on the documentary evidence and testimony I find that the tenants have not met the burden of proving that they are entitled to compensation for loss of their peace and quiet enjoyment. The landlord did provide the tenants with a \$100.00 rent deduction for the inconvenience of the repairs that were necessary for the leaking tub and have reimbursed the tenants for the \$302.71 expenses.

The timeline for the length of the inconvenience to the tenants is not clear as even the tenant's own testimony contradicts on this point and ranges from 3 weeks to 1.5 weeks with some of the inconvenience lasting only 3 days.

Residential Tenancy Policy Guideline 6 **Right to Quiet Enjoyment** speaks to:

*Temporary discomfort or inconvenience does not constitute a basis for a breach of the covenant of quiet enjoyment.*

Throughout this brief tenancy the landlord was very responsive to the tenant's requests for repairs and ensured that urgent repairs such as the toilets were addressed within a matter of days. And while issues such as the garage door opener not working or the fence requiring repair were an inconvenience to the tenants, the tenants still had access to the garage and use of the yard.

The tenant's application is hereby dismissed in its entirety without leave to reapply.

As the tenants have not been successful in their application they are not entitled to recovery of the \$50.00 filing fee.

Conclusion

The tenant's application is dismissed without leave to reapply.

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 15, 2011.

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Residential Tenancy Branch