



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNR, MNDC

### Introduction

This was an application by the tenants for a monetary order including a request for payment for the cost of emergency repairs. The hearing was conducted by conference call. The tenants and the named landlord participated in the hearing; I heard evidence from witnesses for the landlord. When the tenants commenced this application they named two parties as respondents who were not the landlords or the owners of the rental property. They had acted on behalf of the owners in a limited capacity, but at the time of the application did not fulfill any of the duties of a landlord. The actual landlords have received the application and tenants' evidence. They have agreed to be named as parties and have responded to the tenants' claims and the evidence submitted.

### Issue(s) to be Decided

Are the tenants entitled to a monetary order and if so, in what amount?

### Background and Evidence

The rental unit is a house on Vancouver Island. The tenancy began May 1, 2010, initially for a three month term. Rent was \$700.00 per month and the tenants paid a security deposit of \$350.00 on April 29, 2010. It was noted on the initial tenancy agreement that: "Property is rented "as is".

The parties entered into a second agreement on or about August 25, 2010 for a term commencing August 1, 2010. The rent was reduced to \$640.00 per month. The tenants were responsible for maintaining the yard and grounds and for snow removal.

In the application for dispute resolution the tenants claimed payment of a monetary award expressed as: "\$188.72 & plus". In the details of dispute they wrote: "see attached". Amongst the documents filed as evidence the tenants submitted a three page typed document entitled: "Addendum RTB file # Monetary Orders. The addendum set out a list on three pages of requested amounts for the following:

- Reimbursement for extra Hydro used due to malfunctioning electric forced air furnace.
- Others hooked up to our electricity
- Loss of income from babysitting
- Loss of use of the play area, parking and mechanical repair area
- Loss of use of playroom
- Loss of use of Terry's bedroom
- Loss of use of Lily's bedroom
- Loss of use of basement
- Loss of enjoyment
  - Due to cold:
  - Due to harassment
- Cost of filing Arbitration (travel expenses)
- Cost of emergency heaters and 2 sets furnace filters
- Order for emergency heating system clean
- Order for extraction clean of carpets
- Cost of registered mail

The tenants complained that the landlord's electric furnace was not working properly. The tenants testified that their electrical bills were increased due to the malfunctioning furnace. They also complained that they were deprived of heat in the rental unit. The tenants requested payment of \$315.00 for excess Hydro payments for one year from September, 2010 to September, 2011. The tenants also claimed that their metered electrical supply was used by others at the tenants' expense. They said that they paid power supplied to the shed on the rental property used by third parties. The tenants claimed \$191.60 for electrical charges. They complained that the landlord's electrician was not qualified or certified to perform work on the furnace.

The tenants complained that four weeks of repair work on the rental property prevented the tenants from earning income from babysitting. They claimed \$70.00 on this account. The tenants claimed \$15.00 for loss of a play, parking and mechanical repair area for three weeks. There are a multitude of claims particularized by the tenants in their documents. The tenants claimed \$636.48 for loss of use of half of the living room From September 1<sup>st</sup> 2010 to November 15<sup>th</sup> 2010 and from January 3<sup>rd</sup> to May 15<sup>th</sup>, 2011. They claimed a \$618.00 for loss of enjoyment due to cold from September 1, 2010 to November 15, 2010 and from January 3, 2011 to August 19, 2011. The tenants claimed a further \$700.00 for loss of enjoyment due to harassment for 14 months. The tenants claimed \$116.31 for the cost of emergency heaters and \$4.36 for two furnace filters.

The landlord disputed the claims for increased hydro use. The landlords submitted responses to each of the tenants' claims. The landlord did pay the tenants \$100.00 compensation in March to make up for his use of Hydro when he stayed in his trailer at the rental property while performing house repairs. The landlord acknowledged that he allows his tenants who occupy an adjacent rental unit to use part of his shed on the property to store salal. The tenant claimed that the neighbours used electrical lights in the shed at his expense. The landlord said that the adjacent tenants powered the lights at the shed via an extension cord from their rental unit and they were not operated at the tenants' expense.

I heard evidence from the landlord's electrician, J.M. about work performed on the electrical furnace in the rental unit. He first investigated the heating system at the request of the landlords' representative in October, 2010. In an effort to alleviate the frequency with which the furnace cycled on and off he replaced the thermostat on two occasions. He said that the furnace was working and providing adequate heat. The electric furnace has four elements. The electrician replaced "sequencers" that control the order and number of electrical elements in the furnace that are turned on or off in response to thermostat settings and temperature. There was a delay in obtaining parts and the electrician assisted in obtaining space heaters to provide heat while parts were shipped.

The landlord said that after the initial three month term of the tenancy when rent was \$700.00 per month he agreed to grant the tenants a \$60.00 per month rent reduction to compensate the tenants for the cost to heat the rental unit with the installed electric forced air furnace. The rent was reduced to \$640.00 per month. He disputed the tenants' evidence with respect to the extent and duration of disruptions caused by the landlord's work on the rental property. He said that he performed work promptly at the request of the tenants. He installed a new replacement fridge at the beginning of the tenancy. He installed a new more efficient hot water heater. The landlord installed a new roof on the house. He said that the shingling of the roof took three days and debris from the roofing as well as tree trimmings were removed on the 4<sup>th</sup> or 5<sup>th</sup> day.

The tenants claimed various amounts of compensation for loss of use of a playroom in the house and two bedrooms for several days due to work on the roof and skylights.

The tenants claimed to have lost use of one half of the living room for some 208 days. They hung a polyethylene sheet across the living room presumably so as to retain heat in one portion of the living room and so as to avoid having to heat the whole of the space.

Landlord agreed to clean the heating system air ducts, however the work can only be done when the duct cleaning company has work enough to justify the trip to the location of the rental unit. The landlord is prepared to pay for furnace filters purchased by the tenant.

### Analysis and conclusion

I have reviewed all of the tenants' written submissions as well as the landlord's documents. The tenants' documents and submissions were delivered late, however the landlord managed to respond so I have considered them in arriving at a decision.

The residential tenancy policy guideline concerning a tenant's right to quiet enjoyment notes that:

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

It is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises, however a tenant may be entitled to reimbursement for loss of use of a portion of the property even if the landlord has made every effort to minimize disruption to the tenant in making repairs or completing renovations.

I find that the landlord has acted reasonably and promptly to deal with problems and perform repairs as needed throughout the tenancy. There was a delay in obtaining parts for the furnace, but it was not caused by any neglect or delay on the part of the landlord, but rather by the unavailability of certain parts. I will not deal individually with each of the tenants' claims for compensation for loss of quiet enjoyment; I find that the bulk of these claims are frivolous and do not involve any substantial loss of quiet enjoyment. I find that for the most part the matters complained of by the tenants consisted of short-term temporary discomfort or inconvenience due to performance of necessary repairs; save as discussed hereafter in these reasons, I find that these short-term inconveniences do not merit an award of compensation.

The tenants claimed to have been harassed by the landlord and claimed loss of quiet enjoyment on that account. The landlord denied harassing the tenants; I found the tenants' claim unsubstantiated and it is dismissed.

I find that the tenants have not shown entitlement to any compensation for increased power use. They negotiated a rent reduction from \$700.00 per month to \$640.00. The

\$60.00 reduction was intended to help defray the tenant's cost to heat the house with the existing electric furnace. The evidence supplied does not prove on a balance of probabilities that the tenants have paid for increased electrical consumption due to the fault of the landlord or due to a defective furnace or to the use of auxiliary heaters. The tenants claimed that the landlord's electrician took three months to obtain a part and return to work on the heating system. The tenants have not shown that they were without heat for that period or some other period. They submitted a receipt for purchase of two heaters on August 19, 2011. I do not find this to be convincing evidence that the heaters were purchased to deal with a claimed lack of heat. The tenants' claim for loss of quiet enjoyment due to a lack of heat is dismissed.

The tenants are not entitled to claim any costs, apart from payment of a filing fee for bringing an application for dispute resolution. This includes travel and mail costs as well as costs to copy and provide documents. The tenants did not pay a filing fee for their application for dispute resolution. The tenants' claim for these items is dismissed.

I find that the tenants are entitled to be compensated for the purchase of furnace air filters in the amount of \$4.36.

I direct the landlord to have the heating ducts cleaned as soon as practicable.

All other claims by the tenants are dismissed. If not already paid the tenants may deduct the sum of 44.36 from a future instalment of rent.

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 17, 2011.

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Residential Tenancy Branch