



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR, MNDC, ERP, RP, PSF, RR, FF

### Introduction

This hearing dealt with an application by the tenant to cancel a notice to end tenancy for unpaid rent, money owed or compensation due to damage or loss, to order the landlord to make emergency repairs, order the landlord to make repairs, order the landlord to provide services or facilities, 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 June 1, 2010 with monthly rent of \$730.00 and the tenants paid a security deposit of \$365.00.

On January 6, 2012 the landlord served the tenants with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenants stated that as the roof in the rental unit was leaking, they had made an agreement with the landlord to have a rent reduction if the repairs were not completed. The tenant stated that when the landlord came to pick up the January 2012 rent he showed the landlord the wet ceiling and reminded him of their agreement. The tenant stated that the landlord accused him of cheating him out of the rent and issued the tenants the notice.

The tenants testified that on January 6 and January 10, 2012 the landlord was served by the City of Vancouver Fire & Rescue Services with a Notice of Violation. Both notices refer to substandard electrical wiring in the rental unit along with additional safety violations on the rental property as a whole. The tenants stated that at this time there is no heat or electricity in the rental unit as the landlord is have all electrical repairs completed by a licensed electrician and have the rental unit inspected by a City of Vancouver Inspector prior to the electricity being turned back on.

The tenant stated that there have been a number of issues with the rental property due to a lack of maintenance by the landlord. The tenant stated that at the start of the tenancy the gas stove stopped functioning and the landlord replaced the stove with a second hand gas stove. The tenants stated that in July 2011 the replacement gas stove stopped working properly and that when the oven was turned on the stove simply leaked gas and would not light. The tenant stated that he contacted the landlord after he got a quote for repair of the stove but that the landlord became upset that the estimate was too high and the repairs to the gas stove were never completed. The tenant also commented that the gas stove is not vented which is a violation.

The tenant stated that the City of Vancouver Inspector also noted that the bathtub was not to code as it was too high to safely step into, something that is an issue for one of the tenants due to their height.

The tenant stated that the drain under the kitchen sink leaked and when he advised the landlord of this, the landlord came to the rental unit to attempt to repair the leak. The tenant stated that when the leak continued, the landlord told him to put more glue on the joints to stop the leak. The tenant stated that he finally got the leak to stop but that if the drainpipe is not propped up, the seal on the repairs will not hold. The tenant stated that the landlord has propped the drainpipe up with a propane cylinder and a pack of playing cards. The landlord stated that if there was still an issue with the drainpipe leaking that the tenant should have advised him to hire a professional to fix the leak.

The tenant stated that the steps to their rental unit were in a state of disrepair and that one day last fall, one of the loose, rotten boards cause the tenant to trip. The tenant stated that he grabbed the handrail to stop from falling down the stairs only to have the handrail give way as the bottom support post was rotten. The tenant commented that he was lucky and thankful that he had not been hurt. The tenant stated that the landlord did replace the stairs but that they are not at the correct angle and not up to code.

The landlord stated that he had put the new stairs in as a 'temporary fix' and replacement of the stairs was on the list of repairs that the city was requiring.

The tenant stated that the entire rental unit is run off 1 electrical circuit and should run off of 3 electrical circuits. The tenant stated that they continually have to reset the breaker on the electrical panel and that they can only operate 1 appliance at a time of the breaker will trip.

The tenant stated that when they first had problems with the bedroom ceiling light sparking and charring, the landlord had a friend who is an electrician come and inspect the light. In the fall the roof started to leak into the ceiling of the master bedroom and the landlord came to the rental unit and tore a large hole open in the ceiling to locate the leak. The tenant stated that the landlord then patched the roof with tar and covered the hole in the ceiling with a piece of plastic. The tenant stated that when the roof continued to leak the light fixture in the ceiling filled with water and started to spark. The tenant

stated that they called the fire department to attend the rental unit as they were very concerned that a fire may start.

The tenant stated that no precautions were taken when the plaster and lath ceiling was torn down resulting in the bedroom and all their personal items becoming contaminated with asbestos and mold. The tenant stated that when the talked to the landlord about all the mold in the ceiling the landlord told the tenants that the mold would not hurt them and would go away. The tenant maintains that while in the rental unit he continually had problems with heartburn and congestion and now that they are no longer staying in the rental unit he feels much better.

The landlord testified that there is an issue with the ceiling light in the master bedroom and that the power to the light has been shut off from the wall. The landlord stated that he was directed by the City of Vancouver to obtain an electrical permit, hire a licensed electrician, replace 5 electrical boxes and when the work is completed call for an inspection. The landlord stated that the City of Vancouver Inspector had given him an entire list of repairs to compete on the property.

The landlord stated that he had not yet completed the work I the rental unit as the tenants had denied him access. The tenant countered this with stating that all they wanted was for the landlord to provide proper notice per the Act. The landlord stated that he had no idea what proper notice was or how he could get this notice to the tenants.

The tenant stated that as there is no heat or electricity in the rental unit and due to the dangerous conditions created by the asbestos and mold, they have had to seek alternate housing. The tenant stated that due to the asbestos and mold in the master bedroom that they no longer have a useable bed and that other personal items may need to be thrown out. The tenant also stated that they would be vacating the rental unit January 31, 2012 based on the landlord's notice.

### Analysis

Based on the documentary evidence and testimony of the parties, I find on a balance of probabilities that the tenants have met the burden of proving that they have grounds for entitlement to a monetary order for money owed or compensation due to damage or loss.

As the tenants had a duty to mitigate any potential loss and Residential Tenancy Policy Guideline 5. "Duty to Minimize Loss," speaks to: *'that the victim of the breach must take reasonable steps to keep the loss as low as reasonably possible'*, I find that the tenants are entitled to compensation in the following limited amounts:

In the absence of any verification of costs incurred for replacement of the contaminated bed and based on the tenant's testimony, I find, pursuant to section 67 of the Act, that the tenants are entitled to replacement cost of the bed in the sum of \$500.00.

In regards to the tenants not having a fully functioning stove since July 2011, I award the tenants \$50.00 per month for 7 months or \$350.00.

In regards to the limited electrical in the rental unit, I award the tenants \$50.00 per month for 12 months or \$600.00.

In regards to the leaking room in the master bedroom, I award the tenants \$25.00 per month for 4 months or \$100.00.

In regards to the rotten stairs and leaking kitchen drain, I award the tenants \$25.00 per month for 12 months or \$300.00.

As the rental unit was not inhabitable for January 2012, the tenants will not be responsible for paying the \$730.00 January 2012 rent. The landlord's notice is set aside with the understanding that the tenancy will come to an end on January 31, 2012. The landlord understands that he will have vacant possession of the rental unit February 1, 2012.

Accordingly I find that the tenants are entitled to a monetary order for \$1850.00.

As the tenants will be vacating the rental unit on January 31, 2012, the landlord will not be ordered to provide services or facilities nor will the tenants be provided with a rent reduction as the tenancy is coming to an end. Therefore these portions of the tenant's application are dismissed without leave to reapply.

In regards to an order for the landlord to complete emergency repairs or to complete repairs, **I hereby Order that the landlord complete all required repairs to the rental unit.**

As the tenants have been successful in their application the tenants are entitled to recovery of the \$50.00 filing fee.

### Conclusion

**I hereby Order that the landlord complete all required repairs to the rental unit.**

I find that the tenants have established a monetary claim for \$1850.00 for loss. The tenants are also entitled to recovery of the \$50.00 filing fee. I grant the tenants a monetary order under section 67 for the amount of **\$1900.00.**

If the amount is not paid by the landlord(s), the Order may be filed in the Provincial (Small Claims) Court of British Columbia 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 24, 2012

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Residential Tenancy Branch