



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **REVIEW HEARING DECISION**

Dispute Codes      CNC, RP, MNDC and OLC

### Introduction

This application was initially brought by the tenants on October 7, 2011 and was dealt with in a hearing on November 2, 2011. The landlord, who did not appear at the original hearing, made application for the present review hearing Review Hearing on the grounds the landlord had not been served with the Notice of Hearing. The Review Hearing was granted by decision of December 5, 2011.

The original application brought by the tenants sought to have set aside a Notice to End Tenancy for cause, monetary compensation for damage or loss and orders that the landlord comply with the legislation and rental agreement.

In the result, the Dispute Resolution Officer set aside the Notice to End Tenancy, and awarded the tenants \$1,255 to be withheld from future rent, and reduced the monthly rent by \$200 to \$925 until ordered repairs were completed.

The Decision granting the present Review Hearing confined the questions to be reviewed only to the matter of compensation and rent reduction

As a matter of note, the same parties participated in a hearing on January 5, 2012 dealing with a Notice to End Tenancy for unpaid rent served on December 15, 2011. In the result, the notice was set aside because it had been served for rent not paid by order of the Dispute Resolution Officer who conducted the hearing of November 2, 2011.

### Issue(s) to be Decided

The original hearing was asked to set aside the Notice to End Tenancy, a request for compensation for repairs needed and not completed in the rental unit. The present review hearing was granted but limited in scope to the question of the compensation and rent reduction granted in the original hearing.

### Background and Evidence

This tenancy began on April 1, 2011. Rent is normally \$1,125 per month although, as noted, that was temporarily reduced to \$925 by the Decision of November 2, 2011.

Despite my direction to the participants at the beginning of the hearing that the review was granted to deal only with the monetary awards, they insisted on referring to peripheral matters and interrupting one another throughout the hearing. This continued until 10 minutes past the allotted hour when the parties again were unable to hear my statement that the hearing was concluded and they were still speaking when I closed the conference call.

For example, each has accused the other of yelling and screaming during what should be routine communications between landlord and tenant. One such incident resulted in a police call to the rental unit. On that issue, the landlord submitted a statement from a representative from a fire equipment inspection company who stated that the male tenant had been somewhat aggressive with the building manager during his inspection.

I had great difficulty developing a coherent framework to the hearing given the repeated obfuscation by both parties. At the beginning of the hearing, I had to asked the landlord to hang up and call in again as there was an extremely strong echo from his telephone and that of the translator. Although he had a translator, the building manager spoke directly most of the time but was difficult to understand as he was very soft spoken and had a strong accent.

To the matters property under review, the decision from the November 2, 2011 hearing, the DRO found that the tenants were entitled to compensation for the following items;

No mail box key for 1.5 months, delay in repair of the bathtub wall, inadequate heat for seven months, cleaning dirt and mice feces at the beginning of the tenancy, non-working door buzzer and communication system, and the presence of mice.

The DRO award a total of \$1,255 for the loss of use of facilities and quiet enjoyment.

In addition, she ordered that the door system be repaired, that the landlord provide sufficient heat, repair the bathroom fan and install a screen to prevent the entry of mice. The landlord was given until November 30, 2011 to do the repairs and the tenant was granted a rent reduction of \$200 per month until the repairs were approved by a DRO following an application for such by the landlord.

### Analysis

On the two major items, the tenants concur that the heat is now working and I accept the receipt for \$500.64 of November 4, 2011 from a professional communications systems company with details attesting to repair of the entry access and communication system. The tenants state that their door communication still does not work, but in the absence of specific written advice to the landlord on the question, I consider it a new and separate issue.

I heard no evidence on the noise bathroom fan and consider the issue as resolved or unnecessary.

On the issue of the window screen, I heard evidence that there are no screens on any of the 31 units in the building which was the case when the tenants entered into the rental agreement. Section 32 of the *Act* qualifies a landlord's duty to maintain and repair with consideration of the "age, character and location" of the rental unit.

However, given the association of lack of a screen with possible entry by mice, I will allow the tenants to purchase a modest screen insert and deduct the cost from rent provided the landlord is given a copy of the receipt, if the landlord has not done so by the time the parties receive this decision. The screen becomes the property of the landlord at the end of the tenancy.

Overall, I find that the tenants have been fairly and adequately compensated by the \$1,255 award and the \$200 reduction on the December rent.

Beyond that, I find that the orders arising from the November 2, 2011 hearing were substantially met by the end of December and I hereby order that rent is restored to \$1,125 per month as of January 1, 2012.

### Conclusion

The monetary award of \$1,255 and the \$200 rent reduction for December 2011 arising from the hearing on November 2, 2011 are reinstated.

Rent is restored to the standard rate of \$1,125 per month beginning January 1, 2012.

The tenants may purchase one moderately priced small screen insert. They must provide the landlord with a copy of the receipt in deducting the cost from rent and leave the screen with the landlord at the end of the tenancy.

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 09, 2012.

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Residential Tenancy Branch