



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, OLC, ERP, RP, RR

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking an order to have the landlord comply with the Residential Tenancy Act (Act), regulation or tenancy agreement; to provide a rent reduction; and a monetary order.

The hearing was conducted via teleconference and was attended by the female tenant; her advocate and one of the landlords.

### Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to an order requiring the landlord to complete repairs and emergency repairs; to a rent reduction until such time as repairs are completed; and to a monetary order for compensation for damage or loss, pursuant to Sections 32, 33, 62, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The parties agree the tenancy began on August 1, 2007 as a month to month tenancy with a monthly rent of \$1,200.00 due on the last day of the month with a security deposit of \$600.00 paid. The parties also agree the landlord agreed to a rent reduction to \$1,000.00 after the start of the tenancy.

The tenant seeks an order to have the landlords make the following repairs:

- Extermination of rodents throughout the entire property including the air ducts and other structural spaces;
- Restore a proper heating system;
- Improved insulation and sealing of the rental unit in a manner that prevents infiltration of rodents and/or the elements (i.e. cold weather, etc), including interior work such as filling of holes and baseboard installation;
- Replacement of the front door with proper hardware and ensuring the door fits properly;
- Urgent electrical work to restore the breaker box; wiring and outlets to a safe condition;
- Plumbing work required to ensure the upstairs toilet and sink work appropriately; and
- Removal of a tree that is hanging over the house.

The tenants submit that most of these issues raised have been longstanding, since the tenancy began in 2007 including the lack of a furnace; properly installed toilet; electrical problems; inadequate door and door knobs to the exterior; and a blocked sink. The tenants indicate that the rodent problem has been the last 2 or 3 years.

The tenant has provided photographic evidence of these issues and statements from each of the residents in the rental unit. In addition the tenants have submitted a letter from a heating service provider that confirms that the landlords refused to fix the last remaining heating fixture in the rental unit in 2011.

The tenant testified there is a recent mould problem in the children's bedrooms. The tenants did not provide any evidence of the mould problem, including evidence of any testing to determine if the mould is toxic or any medical documentation regarding illness that may be related to the presence of mould.

The landlord testified that on one occasion over the course of the tenancy they had attempted to make arrangements for a repair to take place but the tenant refused access to the repair person.

The tenant testified that this occurred on an occasion where the tenants reported a problem to the landlord and the landlord wanted to send someone right away but the tenants had another engagement and did not agree to allow access to the rental unit.

The landlord did not dispute the condition of the rental unit or the need for any of the repairs submitted by the tenant. The landlord did want to confirm, however, in the hearing that if the tenants did not like the condition of the rental unit they could leave. I did confirm with both parties that was an option available to the tenants.

The tenants also seek a rent reduction of \$300.00 per month until such time as the repairs are completed in addition to compensation for costs incurred as a result of these repairs not being made over the course of the tenancy such as costs to repair a sliding door; additional hydro costs; additional medical costs for the children; the costs of rodent poison and aggravated damages in an amount of \$5,000.00.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 32 of the *Act* requires a landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard for the age, character and location of the rental unit make it suitable for occupation by a tenant.

Section 33 of the *Act* requires a landlord to make emergency repairs. The section includes defining emergency repairs as: urgent; necessary for the health or safety of anyone or for the preservation or use of the residential property, and are made for the purpose of repairing major leaks in pipes or the roof; damaged or blocked water or sewer pipes or plumbing fixtures; the primary heating system; damaged or defective locks that give access to a rental unit; or the electrical systems.

From the undisputed testimony before me I find the landlord has failed to comply with both Sections 32 and 33 as a result of this failure to comply I find the tenants have suffered a loss in the value of their tenancy for the duration of the tenancy since it began in August 2007.

I find, based on the amount of rent paid in that time of over \$50,000 the tenants claim of \$5,000.00 is reasonable compensation for this loss in value considering the additional costs associated with having to make some repairs on their own; to deal with the rodent problem for at least 2 years; for additional hydro costs resulting from the landlord's provision of some baseboard heaters; the fact the house is not closed off to the elements, and aggravated damages.

As these repairs remain outstanding, I order the landlords immediately to:

1. Hire a certified and/or licensed exterminator to eradicate the rodent infestation in the rental unit and on the residential property and to make suitable modifications to ensure the rental unit cannot be infiltrated with rodents in the future;
2. Hire a certified and/or licensed heating, ventilation, and air conditioning service provider to clean the heating ducts and repair or replace the existing primary heating system and any supplementary heating systems;
3. Hire a certified and/or licensed electrician to inspect and repair any deficiencies in the electrical service in the rental unit;
4. Hire a certified and/or licensed plumber to inspect and repair any deficiencies in the plumbing systems in the rental unit;
5. Hire a certified and/or licensed contractor to inspect and repair any building envelop deficiencies (ie. Air infiltration; inadequate insulation, etc) and includes installation of an appropriate exterior door with appropriate hardware including knobs and locks;
6. Hire a tree removal company to remove the overhanging tree; and
7. Ensure they have all required permits and inspections completed for any work that result from the above noted orders.

I also order the tenants are entitled to a rent reduction in the amount of \$300.00 per month effective September 1, 2012 until such time as the landlord has obtained an

order from a Dispute Resolution Officer confirming that the above orders have been complied with and all required work has been completed.

Should the landlord fail to comply with the above orders the tenant remains at liberty to seek a further rent reduction and/or additional compensation for the landlord's failure to comply.

### Conclusion

I find the tenants are entitled to monetary compensation pursuant to Section 67 and grant a monetary order in the amount of **\$5,000.00**. This order must be served on the landlords. If the landlords fail to comply with this order the tenants may file the order in the Provincial Court (Small Claims) and be 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: August 21, 2012.

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Residential Tenancy Branch