



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ATIRA PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC RP RR

### Introduction

This hearing dealt with an Application for Dispute Resolution filed on March 04, 2013, by the Tenant to obtain: (1) a Monetary Order for money owed or compensation for damage or loss under the Act, regulation, or tenancy agreement; (2) an Order to have the Landlord make repairs to the unit, site, or property; and (3) allow the Tenant reduced rent for repairs, services or facilities agreed upon but not provided.

The Tenant affirmed that the Landlord was served copies of the application for dispute resolution, the notice of hearing documents, and his evidence by registered mail on March 5, 2013. Canada Post tracking receipt numbers (RW754187223CA) were provided in the Tenant's oral submission. Based on the submissions of Tenant, I find that the Landlord was sufficiently served notice of this proceeding and I continued in the Landlord's absence.

### Issue(s) to be Decided

1. Should the Tenant be granted a Monetary Order?
2. Should the Landlord be ordered to conduct repairs to the unit?
3. Should the Tenant's rent be reduced for services or facilities agreed upon but not provided?

### Background and Evidence

The Tenant submitted documentary evidence which included, among other things, copies of: his written submission; a cd containing photos; printed photos; a notice of entry dated February 21, 2013; letters written to and from the Landlord between August 7, 2012 and March 4, 2013.

The Tenant testified that he has occupied the rental unit since February 24, 2009 and had paid a security deposit of \$227.50 at that time. His current rent is approximately \$375.00 which is paid directly to the Landlord from the Ministry of Social Development.

The Tenant stated that he is seeking orders to have the Landlord make repairs to his floor and window. He pointed to the pictures provided in his evidence and advised that

his floor is nothing but a painted sub floor made out of pressed or particle board with the paint peeling everywhere. He said back in October 2012 he was told by the Landlord that they would install a vinyl floor but they keep putting off his requests.

The Tenant advised that when he informed the Landlord that his window was leaking and rotting they sent an inexperienced repair person and all he did was make a mess of the window by putting caulking around it. The Tenant stated that he removed the caulking because the window was not leaking from the glass; rather, the base or sill of the window is rotten because of years of condensation coming off the glass window onto the window ledge or sill as shown in his pictures.

The Tenant confirmed that he is also seeking compensation of \$50.00 per month reduced rent for past and future delays in getting these repairs completed. He advised that he has been asking to have the repairs completed since last October 2012 and the Landlord keeps making promises but does not complete the work.

### Analysis

Section 32 of the *Act* requires a landlord to 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 to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

In the absence of any evidence from the Landlord who did not appear despite being properly served with notice of this proceeding, I accept the undisputed version of events as discussed by the Tenant and corroborated by his documentary evidence.

Accordingly, I Order the Landlord to repair the Tenant's floor and window ledge / sill no later than **April 30, 2013**.

Section 28 of the *Act* states that a tenant is entitled to quiet enjoyment including, but not limited to, rights to reasonable privacy; freedom from unreasonable disturbance; exclusive possession of the rental unit subject only to the landlord's right to enter the rental unit in accordance with the *Act*; use of common areas for reasonable and lawful purposes, free from significant interference.

In many respects the covenant of quiet enjoyment is similar to the requirement on the landlord to make the rental units suitable for occupation which warrants that the landlord keep the premises in good repair. For example, failure of the landlord to make suitable repairs could be seen as a breach of the covenant of quiet enjoyment because the continuous breakdown of the building envelop would deteriorate occupant comfort and the long term condition of the building.

Residential Tenancy Policy Guideline 6 stipulates that "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.”

Policy Guideline 6 states: “in determining the amount by which the value of the tenancy has been reduced, the arbitrator should take into consideration the seriousness of the situation or the degree to which the tenant has been unable to use the premises, and the length of time over which the situation has existed”.

In this case the evidence supports the Tenant has requested repairs to his floor and window sill since the end of October 2012 and the Landlord has failed to complete the required repairs. Based on the foregoing, I award the Tenant **\$300.00** for loss of quiet enjoyment which is comprised of six months at \$50.00 per month (November 2012 to April 30, 2013).

### Conclusion

The Landlord is HEREBY ORDERED to repair the Tenant’s floor and window ledge/sill no later than **April 30, 2013**. The Tenant is at liberty to make a future claim for compensation if the Landlord does not comply with this Order.

The Tenant has been awarded a Monetary Order in the amount of **\$300.00**. This Order is legally binding and must be served upon the Landlord. In the event that the Landlord does not comply with this Order it may be filed with the Province of British Columbia Small Claims Court 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: March 27, 2013

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Residential Tenancy Branch

