



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CAPREIT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RP, RR, MNDC

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act") seeking a monetary order for money owed or compensation for damage or loss, an order requiring the landlord to make repairs, and for an order allowing a reduction in rent.

The parties appeared, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter the parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

At the outset of the hearing, each party confirmed that they had received the other party's evidence. Neither party raised any issues regarding service of the application or the evidence.

I have reviewed all evidence and testimony before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Issue(s) to be Decided

Is tenant entitled to a monetary order and a reduction in monthly rent?  
Is the tenant entitled to an order requiring the landlord to make repairs?

### Background and Evidence

The undisputed evidence shows that this tenancy began on November 1, 2011, current monthly rent is \$900 and the tenant paid a security deposit of \$450.00 at the beginning of the tenancy.

In addition to seeking an order requiring the landlord to make repairs and a reduction in rent, the tenant's monetary claim is in the amount of \$2400.00.

When questioned, the tenant said that she concluded this amount would be in compensation of \$300.00 for 8 months for devaluation of the tenancy.

In explanation, the tenant submitted that she has been dealing with several issues, some significant, some since the beginning of the tenancy and some for at least since last May.

*Issue #1*-The tenant said that her patio door has not worked since she moved in and that the landlord has not adequately addressed the repair. The tenant said that a maintenance man came to the rental unit and replaced the roller; however, this did not fix the problem.

The tenant said she notified the landlord of the issue in November 2011, in September 2012 and in February 2013. These requests were verbal as she was told by the landlord that if she had complaints that she should call the office. The tenant named the personnel in the office she spoke with.

*Issue #2*-The tenant said that the lock in the bedroom window does not work and that she has to slam the window to lock it. The tenant said the landlord's response was to put a piece of wood in the window.

*Issue #3*-The tenant said that a leak in the front room in January 2013 left water stains in the ceiling and that the landlord has provided touch up paint to cover the stains. The tenant did agree that this was not a major issue.

*Issue #4*-The tenant said that since the beginning of the tenancy, her rental unit has been too hot, with a constant year round temperature between 80-90 degrees, Fahrenheit, even though she has never turned on her heating. The tenant said that at first the issue with the heating was extreme noise and now the rental unit remains too hot.

The tenant said the landlord's response was to leave her window open, but as she lives on the first floor, she was unable to do so for safety reasons.

*Issue #5*-The tenant expressed that the most serious issue was with mice in the apartment, as she is terrified of mice. The tenant submitted that she has had at least 8 mice in her apartment since last May, even though the landlord has a pest control company attend the rental unit twice a month.

The tenant said that the pest control company does nothing but set down sticky tape, and when she does catch a mouse, she has to find someone in the building to remove the trap as she is unable to deal with removing the dead mouse and trap. The tenant said there is no follow-up to ensure the mice are gone.

The tenant also submitted that although the pest control company did fill some holes, the problem persists. The tenant surmised that the problem could from the locker room on her floor, as there is a hole in the ceiling around the pipes.

The tenant said that she is constantly bleaching her counters and apartment in order to clean up the mice feces and filth.

Due to the landlord's insufficient response to her issues, the tenant submits that she is entitled to a continuing rent reduction until all issues are resolved.

In response to my question, the tenant said she has been notifying the landlord on a continuing basis of each and every one of her complaints.

The tenant's relevant evidence included multiple notices of suite entry posted by the landlord, a petition from multiple tenants in the building, each with the tenant's own particular complaints, a letter from the landlord requesting the tenant to put her specific complaints into a letter, a letter from the tenant with her complaints, dated October 15, 2012, in which the tenant informed the landlord that her issues were with the mice, noise from surrounding construction, and noise from the heater, and a letter to the landlord, dated November 4, 2012, complaining about the notices by the landlord of entry to her suite, but no one appearing.

In response, the landlord provided the following evidence:

*Issue #1*-The landlord said that their maintenance man has put in a purchase order for a new door and the tenant will be notified when it has arrived.

*Issue #2*-The landlord said that the office personnel does put in a request for items such as an inadequate window lock. The landlord did say that the maintenance man may have neglected the request.

*Issue #3*-The landlord said that the tenant refused to allow the landlord to repaint the ceiling. The landlord said that they will repaint the ceiling if the tenant wants it repainted.

*Issue #4*-The landlord said she was not sure if the tenant was complaining about the heat being too hot or too cold, as she has complaints from other tenants that their rental units are too cold.

The landlord said that the maintenance man said that a solution could be to put insulation in the ceiling.

The landlord said that she will have an electrician attend the rental unit within the next two weeks to look at replacing parts in the boiler system.

*Issue #5*-The landlord said that they have a national pest control company under contract, and have had for a year since they began receiving complaints.

The landlord said that they have spoken with the company every two weeks and were told the only solution was to have the building completely empty to fumigate the whole building at once, which was not a practical solution.

The landlord said they are looking for a new pest control company.

The landlord also offered to help the tenant seek suitable alternate accommodations within a few blocks of her current building in another of the properties managed by the landlord.

The landlord's relevant evidence included many of the same documents submitted by the tenant, a pest control company report, and the tenancy agreement.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 32 of the *Act* requires that a landlord must provide and maintain a rental unit in a state of 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, makes it suitable for occupation by a tenant.

As to the issue surrounding the presence of mice, the most serious as submitted by the tenant, while the landlord has responded to the mouse infestation, I find that the landlord's response has been insufficient.

I find this insufficient response by the landlord has caused the tenant to have suffered a loss of use and enjoyment of the rental unit, causing a diminished value of the tenancy.

I find the only remedy available to the tenant is a reduction in rent and I therefore grant her application seeking such an order.

Residential Tenancy Branch 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."

As I have found that the value of the tenancy has been diminished through the landlord's insufficient response to the mouse infestation, I find a reasonable amount for a rent reduction due to the diminished value to be \$75.00 per month. I find the diminished value should be granted retroactively for 7 months, from October 2012, when the tenant first issued the landlord a notice in writing, through the latest rent payment, April 2013.

I have not ordered a retroactive rent reduction earlier than October 2012, as the tenant failed to prove that the landlord was issued a written request earlier than this month.

I therefore order the landlord to compensate the tenant in the amount of \$75.00 per month retroactively for 7 months, for a total amount of \$525.00, pursuant to section 62 of the *Act*. The tenant is authorized to deduct this amount from her next monthly rent payment in full satisfaction of her monetary award. For clarity, the tenant's next monthly rent payment will be \$375.00.

Until the completion of the full and effective extermination, I grant the tenant a continuing rent abatement of \$75.00 per month and I further authorize the tenant to

reduce future monthly rent payable by \$75.00 until such time as a licensed, professional company has issued its final report certifying that the process of extermination of the rodents is complete.

Upon receipt of the written report verifying completion of the final extermination of the rodents, the tenant will be obligated to resume payment of the full monthly rent starting the month following receipt of the written report. Example: if the landlord supplies the report on May 5, 2013, the tenant's rent for May is reduced by \$75.00, but the tenant would have to pay the full amount of rent payable for June 2013.

If the tenant is not satisfied with the extermination being complete and continues to withhold rent, the landlord is required to file an application for dispute resolution to prove to the Residential Tenancy Branch that it has complied with this Decision.

As to the issues of the patio door, the lock on the bedroom window, and the excessive heat in the rental unit, I accept that the tenant notified the landlord at some point in the tenancy of these issues and that the landlord responded, whether that response was adequate or not. I do not find that the tenant provided consistent written requests to the landlord so as to put the landlord on notice that their response was inadequate.

Without follow-up written notices to the landlord that the response was inadequate, I do not find that the landlord was negligent in attending to the repair requests. If the landlord did not hear that the problem still persisted, I do not find that the landlord can be held accountable.

However, the landlord is now on notice, and I so order that the landlord immediately repair the patio door, the bedroom window, and the heating system so that the tenant's rental unit does not continue to have excessive heat.

Should the landlord fail to immediately fully repair or replace the patio door, the bedroom window lock, and remediate the issue with excessive heat in the rental unit by May 15, 2013, I further authorize the tenant to reduce her future monthly rent obligation by \$50.00, beginning in June 2013, until such time the repairs are completed in a good and workmanlike manner.

Upon completion of the repairs, the tenant will be obligated to resume payment of that \$50.00 that she has deducted starting the month following such occurrences. For clarity, if the landlord completes the repairs in a good and workmanlike manner by May 15, 2013, the tenant's rent for June will not be further reduced by \$50.00; however if the

landlord fails to complete the repairs in a good and workmanlike manner by May 15, 2013, the tenant's rent for June 2013 is further reduced by \$50.00.

If the tenant is not satisfied with the repairs and continue to withhold rent, the landlord is required to file an application for dispute resolution to prove to the Residential Tenancy Branch that they has complied with this Decision and to allow the monthly rent to be increased by \$50.00, taking into account the reduction in rent for the mouse infestation.

I have not addressed the issue of the water stain in the tenant's ceiling, due to her acknowledgement that it was not a real concern; however, the tenant may still request that the landlord provide a touch-up paint should her opinion change.

### Conclusion

The tenant has been granted a retroactive reduction in rent, in the amount of \$525.00 in monetary compensation.

The tenant is directed to withhold the amount of \$525.00 from her next monthly rent payment in satisfaction of her monetary award.

The tenant is authorized to reduce future monthly rent by \$75.00 until such time the landlord has remedied the rodent infestation in the tenant's rental unit. The rent will be returned to \$900.00 as directed when the conditions listed above have been met.

The landlord is ordered to complete the repairs as directed above, by May 15, 2013.

If the landlord fails to complete all such repairs by May 15, 2013, the tenant is authorized and directed to reduce her next monthly and subsequent rent payments by \$50.00 as a continuing reduction in rent until all repairs are completed in a good and workmanlike manner.

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: April 22, 2013

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Residential Tenancy Branch