



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, ERP, FF

### Introduction

This was a hearing with respect to the tenants' application for monetary order and an order directing the landlord to make emergency repairs. The hearing was conducted by conference call. The tenant and the landlord called in and participated in the hearing. Since the application was filed the tenant has moved from the rental unit and there is no basis for an order directing the landlord to make emergency repairs.

### Issue(s) to be Decided

Is the tenant entitled to a monetary award and if so, in what amount?

### Background and Evidence

The rental unit is a duplex studio loft apartment. The tenancy started February 1, 2013 for a four month term ending May 31, 2013. The monthly rent was \$1,300.00. The tenant did not pay a security deposit. The tenant testified that in mid April she noticed a chemical smell in the rental unit. The tenant described it as a wood stain smell. She said there was a chemical vapour "off-gassing" inside the rental unit. She reported the smell to the landlord. She said that he attended on April 11<sup>th</sup>, but did not inspect inside the house to verify the problem. The landlord said he did not perceive any problem.

The tenant said the problem grew worse. By April 19<sup>th</sup> the smell became worse. The tenant said she had to leave all the windows and the door open to try to dissipate the smell. She said the smell was affecting her health and her pet's health. She used sheets to block off the area where the odour originated from the rest of the living space. The tenant submitted photographs of the rental unit, including pictures that she said showed the area where the odour originated. The tenant submitted what she described as a report prepared by an industrial hygienist. The document was dated April 25, 2013 and was a one page copy of hand written notes written on a form titled "Technical Memorandum. The notes reported that a crawl space had been inspected and was

found to be dry and unventilated. There was a comment that: "Odour found on main floor appears to be crawl space". The author listed recommended actions as follows:

- Move washer/dryer to determine if a (French?) drain is beneath.
- Keep all drain traps topped w water.
- Poly entire c/s floor overlap seams 12 -/24 " + tuck tape, seal edges.
- Add ventilation fan 80 – 20 CFM - to crawl space activated on humidistat switch ref at 40 – 50%
- Consider HRV system for intro (illegible) of fresh (outflow) air

The tenant sent a letter to the landlord dated April 26, 2013 demanding that repairs be made and requesting compensation and a rent reduction. The tenant moved out on May 1, 2013. She claimed that she did so because the landlord refused to implement the recommendations made by her inspector and did not make the repairs needed to eliminate the odour problem. In the application the tenant claimed \$1,600.00. In her written materials the tenant claimed payment of the sum of \$1,013.63 made up of:

- |   |          |
|---|----------|
| • Rent reimbursement, April 15 to April 30: | \$650.00 |
| • Dog care costs:                           | \$150.00 |
| • Cost for expert report:                   | \$100.00 |
| • Filing fee for application                | \$50.00  |
| • Postage, courier:                         | \$44.14  |
| • Fax, computer charges:                    | \$8.52   |
| • Photograph costs                          | \$13.97  |

Total: \$1,016.63

The landlord testified that he responded promptly to the tenant's complaints about a chemical odour. He attended at the rental unit and conducted a thorough inspection. The landlord and his wife could not detect the odour about which the tenant complained. Notwithstanding his inability to detect an odour problem, the landlord did implement recommendations proposed by the tenant's industrial hygienist; he called the consultant and discussed his recommendations; upon his advice he covered the crawl space with polyethylene sheet and sealed and taped it as recommended. He also added a vent to the crawl space.

The landlord also noted that on April 23, 2013 the tenant gave written notice that she would move out on May 31, 2013. He said that the tenant had requested permission to end the tenancy early for personal reasons concerning her son.

The landlord testified that the rental unit was recently renovated and has been used as a short term rental property. He said that have been no other complaints about odours

from guests staying in the rental unit. The landlord said that when he inspected the rental unit on April 20<sup>th</sup> all he noticed was a little electronic component smell coming from the tenant's computer modem.

The tenant denied that the landlord had adequately responded to the odour problem; she said his repair efforts were slapdash and ineffective. She said that she did not use the odour problem as an excuse to end the tenancy early.

### Analysis and conclusion

The tenant relied upon the memorandum from the industrial hygienist to support her position that there was an intolerable chemical odour in the rental unit and that she was justified in ending the tenancy without notice because the landlord failed to rectify the problem after he was notified of it. The tenant bears the burden of establishing on a balance of probabilities that she was justified in ending the tenancy and that she is entitled to compensation. She said that the landlord's failure to observe any odour problem were not determinative because the odour was not constant.

I did not find the tenant's evidence concerning the presence of a serious odour problem to be convincing. The hand written consultant's memorandum submitted by the tenant does not constitute convincing expert evidence; it does not establish that there is a serious problem, but merely recommends solutions to alleviate a perceived problem. In any event, acting on the assumption that the tenant was highly sensitive to odours, the landlord implemented most of the recommendations set out in the memorandum. I find that the landlord acted promptly and appropriately to address the tenant's concerns.

The tenant has not shown that she had grounds to end the tenancy without notice, or that the landlord breached a material term of the tenancy agreement and failed to correct it within a reasonable time after written notice to do so and she has not established that she is entitled to a monetary award in any amount. The tenant's application is dismissed without leave to reapply.

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: May 27, 2013

