



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Pemberton Holmes Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, FF

### Introduction

This hearing dealt with an application by the landlord for a monetary order. Both parties participated in the conference call hearing.

### Issue to be Decided

Is the landlord entitled to a monetary order as claimed?

### Background and Evidence

The parties agreed that the tenancy began on September 1, 2012 and ended in August 2013. The landlord testified that in July, the tenant advised that she was concerned about mold in the rental unit and stated that she had to throw away some of her personal belongings because they had molded. At least one wall in the rental unit had bubbled paint and the tenant said she was concerned that water was running behind the paint. The landlord hired a contractor who inspected the unit for mold and produced a letter advising that the tenant leave the bathroom fan in order to extract excess moisture from the air. The report further stated that a test of the affected walls with a non-invasive moisture meter showed those walls to be consistent with areas which showed no sign of moisture.

The landlord testified that she provided the tenant with a copy of the report and she was still unhappy, so she gave notice to end her tenancy and vacated the unit in August 2013. The landlord began advertising the unit immediately and showed the unit a number of times to prospective tenants. For a short period, the tenant put up a sign in the rental unit which stated, "Warning Mold". The landlord alleged that the sign deterred prospective tenants from renting the unit. The landlord also alleged that the tenant spoke with prospective tenants and other occupants of the residential property and told them that there was mold in the unit.

The tenant acknowledged that she had for 4 days put up a sign in the rental unit advising that there was mold, but stated that she did so in case her brother, who had a compromised immune system, came to the unit as she was uncertain as to whether the environment would affect him. The tenant stated that she told other occupants of the residential property that she had to discard personal items because they were moldy, but not that she had mold in the unit. She further stated that when prospective tenants asked her why she was moving, she answered honestly that mold in the rental unit was one of several reasons.

The landlord testified that after the tenant vacated the unit, they remained concerned that the peeling paint indicated a moisture problem in the walls and they conducted an invasive inspection which again revealed that there was no mold or moisture issue.

The landlord seeks to recover the cost of the 2 inspections as well as lost income for the month of September, claiming that the tenant's actions prevented them from re-renting the unit until October 1.

### Analysis

The landlord has an obligation to maintain the rental unit and must respond to tenant complaints. In this case, the landlord responded quickly and reasonably upon learning that the tenant had concerns about mold. At the hearing, the landlord acknowledged that the condition of the paint in the unit caused the landlord some concern as well and that the presence of moisture in or behind the walls was a logical conclusion to draw. It was this concern, and not the complaint of the tenant, that led the landlord to conduct the second, invasive inspection of the wall.

I find that the landlord must bear the cost of the two inspections as those inspections were part of a reasonable response on the landlord's part to a reasonable complaint. Further, the investigation was required to determine the cause of the peeling paint.

Although the tenant claimed that she put up a sign to warn people about mold in order to protect her brother's health, I find it more likely than not that she intended to warn anyone approaching the unit, including prospective tenants. The correspondence between the parties made the tenant's strong concerns about the presence of mold very clear and her repeated demands that the landlord fully disclose to prospective tenants that there was mold in the unit give reason for me to believe that the tenant intended to dissuade prospective tenants from renting the unit. I also find it more likely than not that the tenant verbally warned prospective tenants and other occupants of the building.

The landlord had conducted a reasonable inspection of the unit to determine whether there was a moisture problem, which would indicate that mold may be present, and was able to satisfy themselves that there was not a moisture issue. I find the landlord's evidence to be persuasive and I find that there was not a mold or moisture problem in the unit other than humidity from cooking and showering, which could be easily addressed through the use of fans and ventilation. The tenant had no objective evidence to indicate that there was a problem and I find that it was unreasonable for her to persist in her belief that the unit had mold and to warn others that there was mold and demand that the landlord disclose a non-existent problem to prospective tenants.

For these reasons, I find on the balance of probabilities that the tenant's actions constitute a tortious interference with the landlord's business relations and I find that the tenant must be held liable for the landlord's losses. I award the landlord \$800.00 which represents lost rent for the month of September. As the landlord has been substantially successful in their claim, I find that they are entitled to recover the \$50.00 filing fee paid to bring their application for a total entitlement of \$850.00.

### Conclusion

I grant the landlord a monetary order under section 67 for \$850.00. This order may be filed in the Small Claims Division of the Provincial 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: February 07, 2014

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Residential Tenancy Branch

