



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, O, OLC, RP, RR, CNC, OPC, FF

### Introduction

The tenants initially applied for an order that the landlords comply with the Act, regulation or tenancy agreement, for repairs to the premises, to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided. This application related to the enforcement of a prior settlement agreement between the parties.

Subsequently the tenants filed another claim, seeking an order to cancel a one-month Notice to End Tenancy, and claiming a monetary award. The landlords then applied for an Order of Possession. These matters were scheduled by the Residential Tenancy Office to be heard at the same time as the original application.

The initial claim of the tenants is not related in fact or law to the subsequent claims, and when so advised, at the hearing the tenants elected to proceed with their initial claim (and not their subsequent claim). I determined that it was appropriate that the tenant's initial claim would therefore proceed. I further determined that the subsequent claim by the landlords and by the tenants are not sufficiently related to the initial claim to warrant a joining of all these matters into one hearing. Pursuant to Rule 2.3, both of these latter claims (files B and C) are dismissed, with liberty to reapply.

### Issues to Be Decided

- Have the landlords contravened a settlement agreement made with the tenants?
- If so, what should be the effect of such contravention?

### Background and Evidence

This tenancy began May 1, 2008. Monthly rent is \$1,981.70, and all rent is currently paid. On February 7, 2014, following a hearing in a prior claim by the tenants, it was agreed by the parties that:

- The landlords would repair a hole in the shower drywall by February 14, 2014.

- The landlords would repair or replace a non-functioning cooktop burner and electric lighters in oven by February 14, 2014.

Neither repair was completed by the time required. The repair to the oven and cooktop did not occur until March 24, 2014, which is 38 days later than required under the settlement agreement. That repair caused a vent hole to be exposed that requires covering with drywall. The repair to the hole in the shower drywall remains incomplete.

The outstanding drywall jobs are relatively small, and the landlords have experienced some difficulty in finding someone to do them. The tenants have been busy, and have not had much time to accommodate a repairman in the premises. The tenants offer to do the work themselves, but the landlords are not willing to have the tenants do it. The landlords remain willing to have the drywall repairs completed, provided the tenants are cooperative, and allow his tradesperson into the premises.

The cooktop and oven appliances did not work properly for almost the entire duration of the tenancy, namely 68 months. The tenants seek a reimbursement for that period of time for the deficient appliance, at a value of \$10.00 per month, or \$680.00.

### Analysis

The tenants acknowledged they have had house guests and have been busy, and times suggested by the landlord have not worked for them. The tenants are therefore found to have contributed to the delay in effecting the drywall repair. The tenants have not proven on a balance of probabilities that the landlords are solely at fault for the failure to complete the drywall repairs. The parties are therefore directed to arrange a mutually convenient time for these necessary drywall repairs. I order that the drywall repairs of the shower areas and the vent hole be completed as soon as possible, and in any event no later than April 30. If not complete by that date, either party can reapply for further remedy.

I agree that the landlord failed to make the appliance repair or replacement in a timely way, or as required under the terms of the settlement agreement. Section 7 of the Residential Tenancy Act, however, requires that a party take reasonable steps to minimize their damage or loss. In respect to the oven and cooktop, the tenants could have brought a claim years ago to have their repair concerns addressed. I do not find that a 68 month claim is therefore warranted. I have limited the tenants' claim to 5 months, a reasonable period that extends beyond the filing of their former claim. I award the tenants the sum of \$10.00 per month for this 5 month period, which totals \$50.00. I further order the recovery of the tenant's \$50.00 filing fee. The total award is \$100.00.

The balance of the tenant's claim is dismissed.

Conclusion

I order that the landlord complete the drywall repairs of the shower areas and the vent hole as soon as possible, and in any event no later than April 30. If not complete by that date, either party can reapply for further remedy.

The landlord must pay the sum of \$100.00 to the tenants. Alternatively, the tenants may deduct this sum from a future rental payment.

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 07, 2014

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Residential Tenancy Branch

