



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes RR, FF

### Introduction

This hearing dealt with an application by the tenant seeking a monetary order, an order for the landlord to comply with the Act, regulation or the tenancy agreement and an order for a rent reduction. Despite having been served with the application for dispute resolution and notice of hearing by registered mail on January 28, 2014, the landlord did not participate in the conference call hearing. The tenant gave affirmed evidence.

### Issue to be Decided

Is the tenant entitled to any of the above under the Act, regulation or the tenancy agreement?

### Background, Evidence and Analysis

The tenants' undisputed testimony is as follows. The tenancy began on August 1, 2012. The tenants were obligated to pay \$1150.00 per month in rent in advance and at the outset of the tenancy the tenants paid a \$550.00 security deposit.

I address the tenant's claims and my findings around each as follows.

**Tenants First Claim** – The tenant is seeking  $\$50.00 \times 12 \text{ months} = \$600.00$  for having a shower that had a garbage bag covering an opening of 26 inches by 28 inches and \$408.00 for loss of use of the suite for 11 days ( $\$1150.00 \text{ divided by } 31 \text{ days} = \$37.10 \text{ per day} \times 11 \text{ days} = \$408.00$ ) after finding mold. The tenant stated that he had verbally asked the landlord numerous times to repair the hole in the shower stall. The tenant stated that he requested in writing to have it repaired three times. The tenant stated that when he discovered mold he moved out of the unit for 11 days as he was fearful for his health. The tenant stated that the landlord had it repaired on the eleventh day.

Given the evidence before me, 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 version of events as discussed by the Tenant and corroborated by his evidence to a limited extent.

When a party makes a claim for damage or loss the burden of proof lies with the applicant to establish their claim. To prove a loss the applicant must satisfy the following four elements:

1. Proof that the damage or loss exists,
2. Proof that the damage or loss occurred due to the actions or neglect of the other party in violation of the Act, Regulation or tenancy agreement,
3. Proof of the actual amount required to compensate for the claimed loss or to repair the damage, and
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

Section 32 of the Act stipulates that a landlord must provide and maintain residential property in a state of decoration and repair that complies with health, safety and housing standards required by law, and makes the unit suitable for occupation by a tenant.

I do find that the tenant is entitled to the \$600.00 compensation for having a shower stall with a plastic garbage bag covering a hole for one year. The tenant has not provided sufficient evidence to indicate the "black marks" that were found was mold or that it was a significant health risk and I therefore dismiss that portion of the tenant's application.

As the tenant has been only partially successful I award the recovery of \$25.00 of the filing fee.

Upon having discussions with the tenant in regards to the balance of the tenants application, the tenant advised that he wished to abandon that portion of his application at this time and accordingly; I dismiss the remainder of the tenants' application.

### Conclusion

The tenant has established a claim for \$625.00. The tenant is entitled to a one time rent reduction of \$625.00 from the next rent due. The rent due for April 2014 is \$525.00.

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 13, 2014

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Residential Tenancy Branch

