



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, RR

### Introduction

This hearing has been convened to deal with the monetary portion of the tenant's application. The request to allow more time to cancel a Notice to End Tenancy, and a request to cancel a Notice to End Tenancy were both dealt with in a previous hearing and decision.

A substantial amount of documentary evidence, photo evidence, and written arguments has been submitted by the parties prior to the hearing. I have thoroughly reviewed all submissions.

I also gave the parties the opportunity to give their evidence orally and the parties were given the opportunity to ask questions of the other parties.

All testimony was taken under affirmation.

### Issue(s) to be Decided

At the beginning of the hearing the tenants stated that they had sent in a letter in which they outline an increase to their claim from \$6000.00 to \$16,060.52, however the applicants have failed to file an amendment to their application, and therefore they were

given the option of withdrawing their application and applying for the larger amount, or abandoning the larger amount and dealing with the original claim of \$6000.00. The applicants chose to abandon the larger amount and just deal with the claim for \$6000.00.

Therefore the issue that I am dealing with today is whether or not the tenants have been overcharged in the amount of \$6000.00 for an alleged illegal rent suite.

### Background and Evidence

The applicants stated that:

- This was an illegal rental suite that was in very poor condition and should have been condemned.
- There were numerous problems with the rental unit, and the landlord failed to take reasonable steps to rectify those problems.
- The landlord had promised to do many improvements to the rental unit but failed to do any of them.
- The kitchen hood fan had no bottom and it's of the blade was fully exposed.
- There was a hole in the ceiling they went directly to the outside.
- The electrical socket beside the sink was not ground fault interrupted as required by law.
- Drainage was problematic in the kitchen sink.
- The laundry room dryer vent was not installed to code.
- The furnace was not installed to code.
- The water heater was not installed to code.
- They were told by the plumbing contractor that the furnace and water heater were both deathtraps.
- The wall separating the laundry room from the bathroom was not installed to code.

- The bedroom window frame was rotting in the window did not close and there was a beehive above the window in the rotted frame.
- There was a significant amount of mold in the bathroom spreading around the shower and around the toilet due to improperly installed plumbing fixtures.
- We confronted the landlord numerous times about the problems however she did nothing to rectify them.
- The plumbing contractor who came to unplug the toilet totally condemned the rental unit.
- They are therefore requesting an order that the landlord returned \$6000.00 of the rent they paid as they believe they had overpaid for this illegal rental unit.

The landlord testified that:

- The tenants lived in this rental unit and got full value for the amount of rent they paid.
- The tenants were only paying \$1060.00 for a two-bedroom suite with a large backyard.
- The tenants lived in the rental unit for 15 months before making any requests for repairs and if this rental unit was in such bad condition, why did they wait so long.
- The plumber did not condemn the rental unit, and in fact the plumber only pointed out items that needed upgrading.
- She was not unwilling to do repairs to the rental unit when requested, however she admits she may not have got them done as quickly as the tenant desired.
- She does not believe that the tenants should have any of their rent returned.

### Analysis

It is my finding that the applicants have not met the burden of proving that they had any substantial loss of use of this rental property.

The tenants have claimed that there were numerous deficiencies to the rental property; however the tenants have provided insufficient evidence to conclude that the alleged deficiencies resulted in a significant loss of use of the rental property.

The tenants have also alleged numerous code violations, however unless the tenants can show that the alleged code violations resulted in the loss of use of the rental property, they do not have a claim for return of rent.

Further, tenants have a responsibility to try and mitigate any loss, and therefore in a situation such as the window that would not close properly, I fail to see why the tenants could not have temporarily cover the window with plastic to alleviate the problem.

The tenants have also alleged that the mold problem in the rental unit has caused health issues; however they provided no evidence in support of that claim.

The landlord has admitted that she did not do repairs as promptly as the tenants would have liked, however again the tenants must show that there was a significant loss, and not just an inconvenience caused by the landlords inaction, and in this case it's my finding that they have not met the burden of proving that there was any significant loss.

Conclusion

This application for a monetary claim and rent reduction is dismissed in full 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: April 07, 2014

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Residential Tenancy Branch

