



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Wall Financial Corp.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      FF, MNDC, PSF, RR

### Introduction

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

Has the applicant established a loss of use and enjoyment of his rental unit such the rent should be reduced by \$200.00 per month?

Should an Order be issued against the landlord to provide a service or facility required by law?

### Background and Evidence

Both the landlords and the tenants agreed that:

- The pool and sauna at this rental property have been closed for renovations/repairs since March 4, 2014.
- The landlords have been doing upgrades to the elevators in the rental property and the main lobby, and are also renovating suites in the rental property.

The tenant has argued that:

- He used the pool and sauna at the rental property on a daily basis for health reasons and therefore the loss of use of the pool and sauna has a significant impact on his life.
- He also believes that landlords have not taken reasonable steps to rectify the problems with the pool and sauna in a timely manner.
- He has investigated the cost of comparable rental units in his area and he believes that without a pool and sauna those rental units rent for approximately \$200.00 per month less.
- He has also had to put up for the inconvenience of the renovations going on in the main lobby, the elevators, and noise from renovations in rental suites.
- He therefore believes it's reasonable that his rent should be reduced by \$200.00 per month and should remain reduced until the pool and sauna are again usable.

The landlords argued that:

- They do not believe that the loss of use of the pool and sauna facilities equates to a loss of value of \$200.00 per month.
- Further there is nothing in the tenancy agreement that states that the pool and sauna facilities are included in the rental agreement, although the tenants do normally have the use of those facilities at no cost.
- The tenant claims that he's been told that comparable rental units without a pool and sauna rent for approximately \$800.00 per month, however he has provided no evidence in support of that claim.
- They also believe that they have taken steps to repair the pool and sauna in a reasonable manner and have not unreasonably delayed the repair. They have spent approximately \$4500.00 attempting to rectify the issues noted in the inspection by Vancouver Coastal Health.
- They fully expect that the pool and sauna facilities will be opening next week as they believe they have rectified all the issues required by Vancouver Coastal Health.
- Further the ongoing upgrades to the elevators, lobby, and rental suites are only going to improve the value of this rental property for all tenants.
- They therefore are opposed to any rent reduction.

### Analysis

Although there is nothing in the tenancy agreement that states that the pool and sauna facilities are included in the rent, they have always been available to the tenant, and therefore loss of use of those facilities does decrease the value received for rent paid.

The tenant has argued that rental units without those facilities rent for approximately \$200.00 per month less, however he has provided insufficient evidence to support that argument.

It is my finding therefore that the tenant has not met the burden of proving that similar rental units without pool and sauna facilities rent for \$200.00 per month less.

I am therefore not willing to reduce the rent on this rental unit by the amount requested. I am however willing to allow a nominal amount of \$50.00 per month for loss of use of the pool and sauna facilities for the months of March 2014, April 2014, and May 2014.

I accept that the pool and sauna facilities will be back in service within the next week or so and therefore I am not going to issue any Order for the landlord to provide a service or facility, nor will I Order an ongoing rent reduction.

I will also allow the tenants request for recovery of his \$50.00 filing fee.

#### Conclusion

I hereby Order that the rent for this rental unit be reduced by \$50.00 per month for the months of March 2014, April 2014, and May 2014, for a total of \$150.00.

I further Order recovery of the \$50.00 filing fee.

Therefore the total amount I have ordered is \$200.00 and I therefore Order that the applicant/tenant may make a one-time deduction of \$200.00 from future rent payable to the landlords.

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 08, 2014

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Residential Tenancy Branch

