



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Code: CNR, MNDC, ERP, FF

### Introduction

The tenants apply to cancel a ten day Notice to End Tenancy for unpaid rent, for an order that the landlord make emergency repairs and for a monetary award for compensation for damage or loss under the law or the tenancy agreement.

By the time of hearing, the tenants had vacated the premises. It follows that the question of the validity of the ten day Notice and the need for emergency repairs are no longer an issue between these parties.

It was determined during the hearing that the tenants had not provide the landlord with a copy of some of the evidence they had submitted, particularly, a number of photographs. The landlord elected to proceed without having received that material.

The application for dispute resolution does not give particulars about the nature of the tenants' monetary claim, however, they have filed a "Monetary Order Worksheet" in the standard government form disclosing that their claim is a) for return of deposit money, and b) "money paid towards rent to own."

### Issue(s) to be Decided

Does the relevant evidence presented during the hearing show on a balance of probabilities that the tenants are entitled to any of the relief requested?

### Background and Evidence

The rental unit is a two bedroom manufactured home. The tenancy started in April 2012. The tenants vacated the property on June 26, 2015, about a week after making this application.

There is a written tenancy agreement between the parties. It is incorporated as part of a "Rent to Own Agreement" whereunder the tenants could pay an agreed price and purchase the manufactured home and the property on which it is located for an agreed price, payable on or before April 1, 2015.

Under the Rent to Own Agreement, 25% of the rent paid between the start of the tenancy and the purchase date was to be applied as a down payment toward the purchase.

The tenants did not pay the purchase price on or before April 1, 2015.

The tenant Mr. K. testified that there were a number of problems with the manufactured home and that the landlord did nothing to attend to them. He claims there was mould in the premises, that the furnace could not be used as the ducting needed cleaning, that the fireplace door was black when they moved in and that there were leaks. He says that a home inspector had deemed the home "unliveable" and that as a result, the tenants could not get bank financing.

The tenants' complaints were outlined in a letter to the landlord sent in late March or early April 2014.

The landlord testified that he purchased the home from a school board in 2005 and that it was all "too code." He says he was able to remortgage the home and so the tenants should be able to mortgage it.

### Analysis

The evidence does not prove that any security deposit was paid by the tenants. Indeed, the written tenancy agreement leaves the amount of security deposit blank. The tenants' claim for return of a deposit must be dismissed.

The tenants have framed their claim as a request for recovery of money paid to purchase the home. That is a claim regarding the purchase of land and is not a matter within the jurisdiction of an arbitrator under the *Residential Tenancy Act*. I have no power to determine that claim.

The tenants' claim may also be seen to be a request for a rebate of rent due to the landlord's alleged failure to properly maintain the premises. For that claim an arbitrator does have jurisdiction.

I find that the tenants' claim is without merit. The fact that they entered into a contract for the purchase of the home and continued to rent it and, apparently, made efforts to complete the purchase agreement earlier this year, bely the complaints made at this hearing. The fact that the tenants made significant improvements; constructing an addition and making a third bedroom show that the home was habitable and acceptable to them.

Their letter to the landlord was sent almost two years after they had been living in the home appears to be the only formal complaint. In my view the landlord's written response, also entered as evidence at this hearing, was a complete and correct response to those complaints. In it, the landlord agreed to engage in the skirting of the manufactured home, the work either to be done by the tenants or by a contractor. The failure of the tenants to pursue the completion of that work is also an indicator of the lack of seriousness of their complaints.

### Conclusion

The tenants' application is dismissed.

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: August 14, 2015

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Residential Tenancy Branch

