



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Lighthouse Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, RP, RR, OLC, FF

### Introduction

This was a hearing with respect to the tenants' application for various relief, including a monetary ward and rent reduction. The hearing was conducted by conference call. The tenants and the landlord's representative called in and participated in the hearing. Although in the application for dispute resolution, the tenants requested a repair order, a rent reduction and an order that the landlord comply with the Act, Regulation or tenancy agreement, the tenants testified that all need repairs have been completed and their claim is solely for compensation for a period of loss of use of a portion of the rental unit.

### Issue(s) to be Decided

Are the tenants entitled to compensation for loss of use of the rental unit and if so, in what amount?

### Background and Evidence

The rental unit is a townhouse apartment in Abbotsford. The tenancy began in October, 2015. The monthly rent is \$1,250.00 and the tenants paid a security deposit of \$625.00 at the start of the tenancy. The rental unit is a three bedroom, unit with two bathrooms. The tenants' daughter occupies the downstairs bedroom in the rental unit.

On May 22, 2016 the hot water tank located in a closet in the downstairs bedroom began to leak. On Monday, May 23<sup>rd</sup>. the tenants contacted the landlord to advise of the leak. After the tenants reported the leak to the landlord they received a visit from the landlord's insurance representative. She cautioned the tenants about potential problems, including mold. Later a contractor attended to replace the hot water heater. Additional work was needed that included asbestos and mold removal. The drywall had to be repaired and asbestos and mold removed before the floor was replaced. The tenants said the work took more than three weeks to complete and the tenants had to

give the landlord several reminders before the work was finally completed. The tenant's daughter was the occupant of the affected bedroom. She suffers from a respiratory condition. According to the tenant she is susceptible to mold and other allergens; it was therefore important that the problems with mold and asbestos be fully remediated before she was permitted to resume occupancy. The tenants testified that they were prevented from occupying the bedroom and the bathroom for a period from May 23, 2016 to June 10, 2016. The tenants submitted that more than three weeks was actually required before the work was fully finished.

The tenants requested compensation for the loss of use in the form of a rent reduction. They made several verbal requests and also requests by email and letter before receiving a refusal from the landlord. The tenants asked for a rent reduction in a letter dated June 23, 2016. They received an email in reply wherein the landlord's representative said: "There seems to be a misunderstanding as to compensation being paid to tenants. As per our addendum, Landlord shall not be liable from the alterations or repairs to the premises or services."

At the hearing the landlord referred to clause 7 of the addendum to the tenancy agreement, a partial copy of which was submitted as part of the tenant's evidence. He noted specifically that the clause stated that the landlord would not be responsible for the cost of alternate accommodation as a result of necessary repairs.

In their application for dispute resolution the tenants claimed compensation for the three week loss of use of the bedroom and bathroom in the amount of \$800.00. The landlord's representative submitted that if an award was made in favour of the tenants it should be for a lesser amount and should be not more than a third of the rent for a three week period.

### Analysis

I find that the tenants suffered a significant loss of use of the rental unit when they were deprived of the use of the bedroom and bath for a period exceeding three weeks. The loss of use was not trivial or transient.

The policy guideline with respect to quiet enjoyment provides in part as follows:

It is necessary to balance the tenant's right to quiet enjoyment with the landlord's right and responsibility to maintain the premises, however a tenant may be entitled to reimbursement for loss of use of a portion of the property even if the

landlord has made every effort to minimize disruption to the tenant in making repairs or completing renovations.

The tenants claimed the sum of \$800.00 as compensation for loss of use. I consider the amount claimed to be disproportionate to the area affected and the duration of the loss. An award for loss of use may, by its nature, be somewhat arbitrary, but it must relate to the actual rent paid. I find that an appropriate award for loss of use of the bedroom and bath for the period in question is the sum of \$300.00. The tenants are also entitled to recover the \$100.00 filing fee for their application, for a total award of \$400.00 and I grant the tenants an order under section 67 in the said amount. This order may be registered in the Small Claims Court and enforced as an order of that court. Instead of seeking to enforce the order, the tenants may deduct the amount of \$400.00 from a future instalment of rent payable to the landlord.

#### Conclusion

The tenants' application has been allowed and they have been granted a monetary award in the amount of \$400.00.

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: August 18, 2016

---

Residential Tenancy Branch