



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDCT, RR, LRE

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution, filed on March 18, 2020, wherein the Tenants sought a 50% rent reduction, monetary compensation from the Landlord in the amount of \$6,199.00, an Order that the Tenants be permitted to reduce their rent for the cost of services, repairs or facilities, and an Order restricting the Landlords' right to enter the rental unit.

The hearing of the Tenants' Application was scheduled for 9:30 a.m. on May 21, 2020. Both Tenants, C.N. and L.W., called into the hearing, as did their children, H.N. and S.Y. The Landlord's legal counsel, C.W., also called into the hearing.

### *Preliminary Matter—Naming of the Parties on the Application*

The Tenants named a law office as the Landlord, as well as their children as Tenants on their Application for Dispute Resolution. A review of the tenancy agreement confirms the Landlord as two individuals, D.D. and B.D. and the Tenants, C.N. and L.W. Pursuant to section 64(3)(c) of the *Residential Tenancy Act* (the "Act"), I amend the Tenants' Application to accurately name the parties.

### *Preliminary Matter—Relief Sought*

The circumstances giving rise to the Tenants' Application, filed March 18, 2020, primarily relate to the impact on their outdoor space due to the Landlord's construction of a new home on the property in which the rental unit is located, as well as the Tenants' claim for compensation for work on the rental unit they completed in the past. The Tenants also seek an Order restricting the Landlord's access to the rental unit.

The parties attended two prior hearings before the Residential Tenancy Branch on Applications filed by the Tenants. The file numbers for those hearings is included on the unpublished cover page of this my Decision.

Firstly, the Tenants filed an Application for a rent reduction on September 27, 2019 (the "September Application"). In the September Application the Tenants claimed that their yard was impacted by the construction and sought compensation for their work on the rental unit and the outdoor areas. By Decision dated December 10, 2019 the September Application was dismissed with leave to reapply.

The Tenants filed a second Application on December 13, 2019 in which they requested a 50% rent reduction from August 2019 based on the construction of the new home on the rental property and their loss of use of the yard. In that Application the Tenants also sought an Order restricting the Landlord's right to enter the rental unit (the "December Application").

The hearing of the December Application occurred on February 20, 2020. By Decision dated February 24, 2020, the Tenants' request for a 50% rent reduction was denied on the basis that they failed to provide the Arbitrator with any substantial reasoning for this quantity of a rent reduction; instead the Tenants were provided nominal damages of \$100.00 for August 2019 and \$200.00 for September through February 2020, as well as a future rent reduction of \$200.00 per month. The Tenants' Application for an Order restricting the Landlord's right to enter the rental unit was dismissed for insufficient evidence; the Tenants were not granted leave to reapply for this relief.

In the hearing before me the Tenants again sought a 50% rent reduction due to the construction of the new home at the rental property. They also sought compensation for work done on the rental home and yard. The Tenants again sought an Order restricting the Landlord's right to enter the rental unit.

The material filed in the application before me mirrors much of what was provided in the September Application and the December Application. Although the September Application was dismissed with leave to reapply, some of the relief sought in the September Application was dealt with by the February 24, 2020 Decision.

As discussed during the hearing, the principle of *Res Judicata* prevents me from rehearing matters which have already been decided.

During the hearing the Tenant, C.N., stated that the relief sought in the March 18, 2020 Application related to *new* issues arising since the February 24, 2020 Decision. As the materials filed in the March 18, 2020 Application related to time before the February 24, 2020 Decision was rendered, and was, as noted, a duplication of some of the material previously filed, it was not clear what evidence related to new issues, and what evidence related to matters which had already been decided.

The Tenant confirmed she wished to withdraw her Application and refile her materials to ensure that only evidence relating to matters which had not already been decided were contained in her Application. Counsel for the Landlord confirmed the Landlord was agreeable to the Tenant withdrawing her Application.

As such, I record the March 18, 2020 Application as being withdrawn by consent of both parties.

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 25, 2020

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Residential Tenancy Branch