



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      MNDC, RR, FF

### Introduction

This hearing was convened in response to an application filed by the tenants seeking:

1. A monetary Order in the sum of \$8,500.00
2. An Order to be allowed to reduce the rental payments for repairs,, services or facilities agreed upon but not provided; and
3. Recover of the filing fee paid for this application.

Both parties appeared at the hearing and gave evidence under oath.

### Issue(s) to be Decided

Are the tenants entitled to the Orders sought?

### Summary of Background and Evidence

The tenants testified that this tenancy began on May 1, 2011, rent was fixed at \$8,500.00 per month and the tenants paid a security deposit of \$4,250.00 on April 1, 2011. In their submissions the tenants say they are applying for a monetary order of \$5,758.00 as compensation:

...for the fact that the Premises were uninhabitable for 21 days in May, such amount being pro-rated rent for 21 days; and \$2,742.00 as compensation for the remaining deficiencies and problems in the Premises that have not yet been repaired.

The tenant testified that she discovered on May 10, 2011 that there was no heat in the house. On May 13, 2011 a contractor came to make repairs but left the heat on at a high temperature and when the tenants returned to the house a few days later the house was overheated and it took a few more days for house to cool. The tenants say that they did not wish to move in until the heating was repaired. The tenants testified

that they completed their move in on May 26, 2011. The tenants say also that they have discovered that the garburettor doesn't work, the icemaker in the fridge does not work, some fans in the house do not work and the hood fan over the stove does not work.

The tenants submit that their ability to get repairs made was hampered by the fact that at times they had to deal with VLP management and then with the landlord/owner herself and they did not know who was dealing with the tenancy.

The landlord submits that she had VLP looking after this tenancy. The landlord wanted to turn over the keys to the tenants at the start of the tenancy on May 1, 2011 but was advised that the tenants did not intend to move into the rental unit completely until the end of May so delivery of the keys was not a rush. The landlord then delivered the keys to the tenants on May 4, 2011.

On May 10, 2011 the landlord says she was advised of the heating problem. The landlord testified that she advised the tenants that she would deliver heaters for them until the heating system could be repaired. The landlord arranged for a contractor to attend to fix any problems with the heating system and meet with the tenants to show them how to use the system. The tenant chose May 13, 2011 but she was not present with the contractor attended. The landlord produced an invoice for this visit noting that an igniter had failed. The contractor installed a new igniter. The landlord attended when the contractor was there and the landlord says she left the heat on in order to warm the house for the tenants.

The landlord submits that the tenants did not return to the house for several days and the temperature rose. When the tenants returned to the house they found the house "overheated" and contacted the landlord. The landlord had the contractor return on May 19, 2011 to inspect and make any necessary repairs. The contractor installed a new thermostat. On May 29, 2011 the landlord says the tenants informed her that they had moved into the house. The landlord submits that she received an email from the tenants on May 30 advising that they did not want to pay May's rent.

The landlord submits that she met with the tenants on June 5, 2011 and agreed that the tenants could hire contractors and have any deficiencies fixed and the landlord would pay the bills when invoiced. The landlord says she has no issue with making any of the repairs claimed but she requires the tenants' cooperation to do so.

### Analysis

A landlord is responsible for ensuring that rental units and property meet “health, safety and housing standards” established by law, and are reasonably suitable for occupation given the nature and location of the property. Regardless of the nature and location of the rental unit a landlord is responsible for ensuring that heating systems are in working condition and, regardless of the nature and location of the rental unit, heating systems do break down. I find that the evidence shows that the landlord was notified on May 10, 2011 that the rental unit was cold the landlord had a contractor attend on May 13, 2011 to make repairs. When the tenant returned to the home several days after the May 13, 2011 repair to find the home too hot, the landlord had the repair person attend once again on May 19, 2011 to make further repairs. The tenants did not dispute that the landlord offered to supply heaters while repairs were being undertaken. I find that the landlord took all reasonable steps to have the heating problem repaired and to supply an alternate heating source for the tenants in the meantime. I find further that because the heater malfunctioned for a few days in May, albeit a cool May, that this does not render the home “uninhabitable” as described by the tenants. I therefore dismiss the tenants request for compensation of \$5,758.00 because I find they have failed in their burden of proving that the rental unit was “uninhabitable” such that the entire rent paid for that period of time should be refunded to them.

With respect to the tenants’ claim for \$2,742.00 for “remaining deficiencies and problems” the landlord has agreed to attend to these repairs and I find that the tenants have failed in their burden of proving that the landlord has refused to make repairs or that the tenants have suffered any loss as a result.

As the tenants have been unsuccessful in their application I decline to award recovery of the \$50.00 filing fee.

Conclusion

The tenants' application is dismissed in its entirety.

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*.

---