



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Meicor Realty Management Services Inc.  
and [tenant name suppressed to protect privacy]

## **DECISION**

### **Dispute Codes:**

MNDC; ERP; RP

### **Introduction**

This is the Tenant's application for compensation for damage or loss under the Act, regulation or tenancy agreement; and an Order that the Landlord make emergency and regular repairs to the rental unit.

The parties and the Landlord's witness gave affirmed testimony at the Hearing.

It was determined that the Notice of Hearing documents were sent to the Landlord by registered mail on January 11, 2013. The Tenant provided a copy of the registered mail receipt and tracking number in evidence. The Landlord acknowledged also receiving copies of the Tenant's documentary evidence by registered mail sent on January 21, 2013. The Tenant acknowledged receipt of the Landlord's documentary evidence on January 25, 2013, by regular mail.

### **Preliminary Matters**

At the outset of the Hearing, it was determined that the tenancy has ended and therefore the Tenant's applications for repair orders are dismissed. The Hearing continued with respect to the Tenant's application for compensation for damage or loss.

### **Issues to be Decided**

- Is the Tenant entitled to compensation for her ruined mattress, cleaning up after leaks in the rental unit, abatement of rent, and loss of peaceful enjoyment of the rental unit?

### **Background and Evidence**

This tenancy started on April 26, 2012. Rent was \$550.00 per month due on the first day of each month.

The Tenant's agent testified that over the course of the tenancy there were several leaks in the bedroom and living room of the rental unit. She stated that the first leak occurred in the living room in June or July of 2012; the second leak occurred in August, 2012, and included the living room and the bedroom; a third leak occurred in the bedroom in December, 2012; and a fourth leak occurred in early January, 2013, also in the bedroom. She stated that the Tenant had to sleep on the couch and was only able to use a portion of the rental unit from July, 2012 to January, 2013, inclusive.

The Tenant's agent stated that the Tenant's mattress and box spring were under 3 years old and that they now smell mouldy and cannot be salvaged. The Tenant's agent stated that the Tenant told the Landlord's agent about the leaks and that he did nothing to help clean up the mess. She stated that she spent a total of 10 to 15 hours cleaning up, approximately 3 hours per leak. She stated that the roofer who patched the roof in July indicated that the roof should be replaced and that patching it would not cure the problem. The Tenant provided photographs of the rental unit in evidence.

The Tenant's agent stated that the Tenant had no working electrical outlets in the living room for a period of 1 ½ months, and that the Landlord would not replace the fuses.

The Tenant seeks a monetary award, calculated as follows:

Pain and suffering	\$500.00
Mattress/box spring	\$1,299.00
Compensation for cleaning	\$400.00
Rent abatement	<u>\$2,200.00</u>
TOTAL claim	\$4,399.00

The Landlord's agent stated that the rental property was sold on January 9, 2013. She stated that there were only three leaks, but stated that each time the roof was repaired quickly. The Landlord provided copies of invoices in evidence.

The Landlord's witness testified that he told the Landlord in August, 2012, that the roof had to be replaced. The Landlord's witness testified that he cleaned up the water the first time there was a leak, but that he was busy when the leak occurred on December 18, 2012. He stated that the Tenant never approached him to say that she needed help cleaning after the leaks. The Tenant disputed this.

The Landlord's agent testified that the cost of replacing the Tenant's mattress and box spring should be covered by tenant's insurance. The Tenant's agent stated that the Tenant did not have insurance, but was advised that insurance would not have covered

it anyway because the roof was so old and the damage was caused by “continuous or repeated seepage or leakage of water”.

When I asked the Landlord’s agent why the roof was not replaced after the first leak, when the weather was still warm and dry, she stated that it was a question of money and that the rental property was up for sale.

The Landlord’s agent stated that the resident manager tried to fix the fuses and posted a notice on the Tenant’s door on January 4, 2013, but did not hear back from the Tenant, so he did not access the rental unit to do the work.

### **Analysis**

Section 67 of the Act provides that if damage or loss results from a party not complying with the Act, regulations or tenancy agreement, the director may determine the amount of, and order that party to pay, compensation to the other party.

The parties disagreed with respect to the number of leaks and the dates on which they occurred. I find, on the balance of probabilities, and based on the verbal testimony and invoices provided by the Landlord in evidence, that there were four leaks: in June/July; August; December; and January. A copy of an e-mail from the former resident manager confirms that the roofer advised him in July that the roof could not be effectively repaired and must be replaced.

Section 32 of the Act requires a landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and makes it suitable for occupation by a tenant.

Based on the evidence before me, I find that the Landlord did not comply with Section 32 of the Act and that the Tenant suffered damage or loss as a result of that failure.

I explained to the Tenant’s agent, Residential Tenancy Branch Policy Guideline 40 indicates that a mattress has a useful life of approximately 10 years, so the Tenant’s mattress would have depreciated in value by approximately one third. The Tenant did not provide sufficient evidence of the cost of replacing her mattress and box spring. However, I find that the Tenant did suffer this loss and therefore is entitled to a nominal amount, the sum of **\$50.00**, for loss of her mattress and box spring.

Section 65(1)(f) of the Act allows me to reduce past or future rent by an amount that is equivalent to a reduction in the value of a tenancy agreement. The Tenant seeks rent abatement in the amount of \$2,200.00, which I find to be excessive. Therefore, I decline to provide rent abatement in the amount claimed. However, I do find that the value of the tenancy was diminished because the Tenant could not sleep in her bed or

have full use of the rental unit, and suffered loss of peaceful enjoyment of the rental unit. For these reasons I award the Tenant rent abatement in the amount of \$150.00 per month for this loss, for a total of **\$750.00** (\$150.00 x 7 months).

I find that the Tenant has established a monetary award in the total amount of **\$800.00** (\$750.00 + \$50.00), and I hereby provide her with a Monetary Order against the Landlord in that amount.

### **Conclusion**

The tenancy has ended and therefore the Tenant's application for repair orders is dismissed.

I hereby provide the Tenant with a Monetary Award in the amount of **\$850.00** for service upon the Landlord. This Order may be filed in the Provincial Court of British Columbia (Small Claims Court) and enforced as an Order of that Court.

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: February 25, 2013

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Residential Tenancy Branch

