



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Nanaimo Affordable Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDC, OLC

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a monetary order and to have the landlord comply with the *Residential Tenancy Act (Act)*, regulation or tenancy agreement.

The hearing was conducted via teleconference and was attended by the tenant and two agents of the landlord.

At the outset of the hearing I clarified with the parties that the tenant had named the corporate landlord; an agent for the landlord and the Chief Executive Officer of the corporate landlord as respondents in his Application. With agreement by both parties I amended the tenant's Application to name only the corporate landlord.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement and to a monetary order for compensation for failure of the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to Sections 32, 67, and 72 of the *Act*.

### Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on September 17, 2013 for a 6 month fixed term tenancy beginning on October 1, 2013 that converted to a month to month tenancy on April 1, 2014. The agreement lists the market rent at \$1,000.00 per month with the tenant's contribution of \$350.00 due on the 1<sup>st</sup> of each month. A security deposit of \$450.00 was required.

The tenant submitted that on October 18, 2015 he reported to the landlord that there was a problem with his fridge. He testified that the fridge portion was not cool enough and the freezer was too cold causing freezer burn to his food. He stated that the landlord did nothing until he reported the problem again in mid-December 2015. He testified the landlord sent a technician but that the fridge continued to not work properly and the landlord replaced the fridge on January 8, 2016.

The tenant stated that as a result of this problem he has suffered from food poisoning that has caused him on going medical problems. He has provided no medical documentation of any illness at the time of the fridge problems or any ongoing medical issues.

The tenant seeks compensation in the amount of \$178.96 to replace several meat products (beef, chicken); frozen vegetables; ice cream, cheddar cheese; toilet paper and extra laundry. The tenant did not provide any documentation as to the costs of these products or that he incurred these expenses.

The landlord submitted that in his experience when there is a problem with fridges sometimes the problems are corrected if they are unplugged and plugged back in. He stated that he advised the tenant to try that first and if it didn't work he should contact the landlord again. The landlord stated he never heard from the tenant until December 11, 2016. The tenant did not dispute this testimony.

The landlord submitted an invoice from the technician which indicated that the technician determined that there were no problems with the fridge other than adjusting the position of the fridge so that excess heat would vent better. The landlord despite this report after the tenant complained again about a problem with the fridge they simply replaced the original fridge.

The tenant also submitted that as a result of the medical conditions he now suffers from an intolerance to heat that requires him to keep his rental unit cooler than it normally is. He has submitted a log of external and internal temperatures from May 23, 2016 to July 8, 2016. The tenant stated the rental unit does not get any cooler than 74<sup>0</sup>. He also stated he has tried many ways of cooling the temperature such as keeping all the windows open; running his air conditioner both with windows open and with windows closed.

The tenant seeks compensation in the amount of \$786.78 to purchase two air conditioners so that he can regulate the temperature in the rental unit.

The landlord stated the heat for the rental unit is provided by in floor radiant heat with controls in each room. The landlord submitted that the first they heard of the tenant's complaint regarding the temperature in the rental unit was when they received the tenant's amendments to this claim. The landlord's position is that the tenancy agreement does not require the landlord to provide the tenant with air conditioning.

### Analysis

To be successful in a claim for compensation for damage or loss the applicant has the burden to provide sufficient evidence to establish the following four points:

1. That a damage or loss exists;
2. That the damage or loss results from a violation of the *Act*, regulation or tenancy agreement;
3. The value of the damage or loss; **and**
4. Steps taken, if any, to mitigate the damage or loss.

Section 32(1) of the *Act* requires the landlord must 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 having regard to the age, character and location of the rental unit make it suitable for occupation by a tenant.

From the undisputed testimony of the landlord I find the landlord responded to the tenant's request for fridge repairs in a timely fashion. I find that despite the landlord's instruction to unplug and re-plug the fridge and to contact the landlord if that didn't work the tenant did not contact the landlord until December 2015. Once the second complaint was received I find the landlord acted quickly and then again when the third complaint came in the landlord replaced the fridge despite the technician's report that there was nothing wrong with the original fridge.

As a result, I find the tenant has failed to provide sufficient evidence to establish that the landlord has violated the *Act*, regulation, or tenancy agreement. I also find the tenant has failed to establish that there was a problem with the fridge in the first place or that there was a need to replace any food.

Furthermore, the tenant has provided no medical records to confirm his assertions that he has any medical conditions that were directly or indirectly a result of any problems with the fridge, even if they did exist. As such, I find the tenant has failed to establish a need for additional toilet paper and/or laundry resulting from any actions or neglect on the part of the landlord.

In regard to the tenant's claim for compensation to purchase air conditioners, I agree with the landlord's position that they are not required to provide the tenant with any such amenity. As noted above the tenant has provided no documentation that any medical conditions he may be suffering have resulted from the landlord's actions or neglect. As a result, I find the tenant has failed to establish the landlord should be responsible to pay for air conditioners for the tenant.

However, as the tenant has indicated that he cannot seem to get the temperature in his rental unit below 74<sup>0</sup> I order the landlord to have the heating system in the tenant's rental unit inspected by a certified technician to determine if there are any problems with either the system. I also order the landlord to repair any deficiencies that may be determined by this inspection.

### Conclusion

Based on the above, I dismiss the tenant's claims for any monetary compensation.

I note that should the landlord fail to comply with the above orders to inspect and repair any problems with the heating system, within a reasonable time, the tenant is at liberty to file a claim for compensation at that time.

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: July 15, 2016

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Residential Tenancy Branch