

DECISION AND ORDER

**IN THE SMALL CLAIMS COURT OF NOVA SCOTIA
Cite as: J & V Development v. Moulton, 2004 NSSM 28**

BETWEEN:

Name: J & V DEVELOPMENT

- APPELLANT

Name: SHAUN MOULTON & LINDSAY LANGLOIS

- RESPONDENT

Revised Decision: The text of the original decision has been revised to remove personal identifying information of the parties on August 10, 2007.

DATE OF HEARING: March 8, 2004

DECISION

Appearances: Raman Seth on behalf of the landlord, J & V Developments
Shaun Moulton and Lindsay Langlois in person

- [1] J & V Developments appeals a decision of the Director of Residential Tenancies ordering it to pay the sum of \$302.00 to the tenants, Shaun Moulton and Lindsay Langlois. Mr. Moulton testified, and I accept, that his apartment bedroom leaked badly on three separate occasions October 21, 2003, October 27, 2003, and in mid-December. Mr. Seth seems to think that the tenants are not truthful and are simply seeking to get money out of the landlord. I find that allegation to be unwarranted and unfair.

[2] The issue is what, if any, compensation should be paid to the tenants. The *Residential Tenancies Act* in its Statutory Conditions says:

1. Condition of Premises - The landlord shall keep the premises in a good state of repair and fit for habitation during the tenancy and shall comply with any statutory enactment or law respecting standards of health, safety or housing.

[3] The landlord is not an insurer of the tenant's comfort. The landlord can only be made liable if it has shown a lack of care or negligence. The landlord will be liable for the consequences of defects which are discoverable by the exercise of reasonable care and skill. Once a problem is discovered, the landlord has a duty to respond expeditiously and remedy it. Failure to respond is a failure to keep the premises in a good state of repair.

[4] Applying this standard, I am satisfied that the defects in the structure were not discoverable by the exercise of reasonable care and skill. R & V is not liable, in my opinion, for damages arising out of the initial leak. It was, however, the landlord's responsibility to remedy the problem promptly and I am satisfied that it did not. It is not enough, in my opinion, to say that tradesmen are not available. The landlord is liable to the tenants for their loss of use and inconvenience as a result of the leaks of October 27 and mid-December. Assessing the damages arising out of leaks is often difficult. Considering:

the tenant's inconvenience;
the costs of laundry;
the natural concern arising out the threat of leaks, and the adjustments in daily living associated with that,

I am satisfied that the amount ordered by the Director is appropriate.

ORDER

[5] In summary, I dismiss the appeal. I order the landlord Raman Seth to pay to the tenants Shaun Moulton and Lindsay Langlois the sum of \$302.50.

Dated at Halifax, Nova Scotia
this 12th day of March, 2004.

J. WALTER THOMPSON, Q.C.
ADJUDICATOR

Original	Court File
Copy	Claimants(s)
Copy	Defendant(s)