

Ontario Consumers Continue to be Victimized by Substandard HVAC Systems

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Substandard heating ventilation and air conditioning (HVAC) systems continue to be installed in thousands of Ontario homes even when organizations such as the Tarion Warranty Corporation (Tarion) are aware that the systems are defective and fall below Ontario Building Code minimum standards. Tarion has known about the systemic problems with these substandard HVAC systems since at least 2009 but continues to deny consumers their rights to be protected under the Ontario New Home Warranty Plan Act which it administers.

As one example, in 2006 Tarion denied a homeowner's claim for repair of a specific brand of Small Diameter High Velocity HVAC system. The homeowner appealed Tarion's decision to the License Appeal Tribunal (LAT) which reversed Tarion's decision in May of 2008. Subsequently, Tarion engaged an independent engineer who concluded in February of 2009 that the problems with these systems were likely due to a defect in design or manufacture.

In June of 2009, Tarion denied the claim of another homeowner, Bev Craddock, who had the same system installed in her home. Ms Craddock appealed Tarion's denial to the LAT which again reversed Tarion's decision (October 2011). In spite of this, Tarion continues to deny the claims of new home purchasers who have exactly the same defective systems installed in their homes.

Dara Bowser, of Bowser Technical Inc., an expert consultant, specializing in residential HVAC systems, contacted the Ministry of Consumer Services in August 2010, saying that, after his investigation, he found that these systems did not meet Ontario Building Code minimum requirements because of faulty design, faulty installation and the possible failure of the equipment to provide the performance claimed by the manufacturer. The Ministry of Consumer Services subsequently contacted Tarion which denied that there was a problem in spite of having lost an LAT decision and having independent reports to the contrary in its possession.

Tarion's website states "We Protect Ontario's Home Buyers.....". In the case of these HVAC systems, it appears that Tarion does not protect Ontario's home buyers. Tarion is undeniably aware of the problems but continues to allow home builders to install these systems and has not warned Builders or Municipal building code enforcement departments. Municipal building code enforcement departments are in a position to refuse building permits for these HVAC systems on the basis that they do not meet the minimum standard of the Ontario Building Code.

Mr. Bowser is calling on the Ontario Government to conduct an investigation into how these faulty systems have been, and continue to be, installed in Ontario homes. In this instance it is clear that our system of safeguards which include codes, standards, professional qualifications, municipal oversight and provincially mandated warranties did not prevent this from happening and is failing to prevent these substandard systems from continuing to be sold and installed.

Clearly, our system is broken and needs to be fixed.

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