



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Public Safety and Solicitor General

## DECISION

Dispute Codes      ERP, RP, RR, MNDC

### Introduction

This hearing dealt with the Tenant's Application for Dispute Resolution seeking a monetary order and an order to have the Landlord make repairs and emergency repairs.

The Tenant testified that he served the Landlord personally with the Notice of Hearing and Application, on February 19, 2010, when he next saw the Landlord.

I find that the Landlord has been served with the hearing documents in accordance with the *Residential Tenancy Act* (the "Act").

### Issue(s) to be Decided

Is the Tenant entitled to a monetary order for compensation for damage or loss and to an order to have the Landlord complete repairs and emergency repairs?

### Background and Evidence

The Tenant testified that the tenancy began on August 1, 2010, monthly rent was \$625.00 and a security deposit of \$300.00 was paid on August 1, 2010.

I heard testimony from the Tenant that the rental unit is the basement suite of the Landlord's house and the utilities, including heat, were included with his rent.

The Tenant testified that when fall came, he began noticing that the furnace/heating system did not work. The Tenant testified that he advised the Landlord of the lack of heat, verbally and at least once in writing, to which the Landlord replied that he had people working on it.

The Tenant testified that the Landlord has not yet repaired the furnace and that he has been without heat all winter. The Tenant stated that he has been forced to use a small

space heater that he carries from room to room, but the heat from that is inadequate and his arthritis has been flaring up as a result.

### Analysis

Based on the foregoing testimony and evidence, and on a balance of probabilities, I find as follows:

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence **relevant** to the issues and findings in this matter are described in this Decision.

Section 32 of the Act requires a landlord to provide and maintain a residential property in a state that complies with the health, safety and housing standards required by law and having regard for the age, character and location of the rental unit, make it suitable for occupation by a Tenant.

Section 33 requires the landlord to make emergency repairs where they are urgent, necessary for the health or safety of anyone or for the preservation or use of the residential property; and are required for the primary heating system.

In the absence of any evidence or testimony from the Landlord I find the Tenant has established that he has been without a furnace or primary heat source since October 2010.

As a result, I find the Landlord has not taken sufficient action necessary to repair the primary heat source and I find this insufficient response has caused the Tenant to suffer a loss of use and enjoyment of his rental unit. I accept that the lack of heating during the coldest of the winter months diminished the value of the tenancy by \$125.00 per month. I **award** the Tenant compensation of **\$125.00** per month for loss of enjoyment of the rental unit starting October 2010, through the day of the hearing, in the amount of **\$625.00** (\$125.00 per month for October through February 2011).

I further order that the rent for the rental unit be reduced to \$500.00 per month beginning in March 2011, in recognition of the Tenant's continued lack of heat in the rental unit, until such time as the Landlord completes repairs to the furnace/heating system and receives an order from a Dispute Resolution Officer that the rent can be increased to its original amount.

I **direct** the Tenant satisfy the monetary claim of **\$625.00** by withholding rent of \$500.00 (the new rent) for March 2011 and \$125.00 in April 2011. As a point of clarification, the Tenant should pay the amount of \$375.00 in April 2011, and \$500.00 per month thereafter until the Landlord and receives an order from a Dispute Resolution Officer that the rent can be increased to its original amount.

### Conclusion

For the reasons noted above, I find that the Tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$625.00**.

I order the Tenant may deduct this amount from future rent payments, in accordance with Section 72(2)(a), as stated above.

I order that the Tenant's rent be reduced to \$500.00 per month until the Landlord receives an order from a Dispute Resolution Officer that the rent can be increased to its original amount.

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 24, 2011.

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Residential Tenancy Branch