



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

MNDC; ERP; RP; FF

### **Introduction**

This is the Tenant's application for a compensation for damage or loss; for an Order that the Landlord make ordinary and emergency repairs; and to recover the cost of the filing fee from the Landlord.

The parties gave affirmed evidence at the Hearing.

The Tenant testified that he served the Landlord with the Notice of Hearing documents by registered mail. The Landlord acknowledged that she received the documents on April 6, 2011. The Tenant testified that he also included copies of his documentary evidence in the Notice of Hearing package. The Landlord testified that she only received the Tenant's Application for Dispute Resolution, the Notice of Hearing and the information sheets provided with the Notice of Hearing.

The Landlord testified that she served the Tenant with copies of her documentary evidence by registered mail on April 20, 2011. Parties are required to provide each other with copies of their documentary evidence at least five clear days before the Hearing date. Documents sent by mail are deemed to be received 5 days after mailing the documents. Therefore, the Landlord's documentary evidence is late and was not considered.

### **Issue(s) to be Decided**

- Is the Tenant entitled to repair orders under the provisions of Sections 32 and 62(3) of the Act?
- Is the Tenant entitled to compensation under the provisions of Section 67 of the Act?

### **Background and Evidence**

This tenancy began in October of 2002. The rental unit is one half of a duplex, approximately 40 years old. Current monthly rent is \$1,690.00 due the first day of each month.

#### **The Tenant gave the following testimony:**

The Tenant submitted that he filed an Application for Dispute Resolution a few years ago, disputing a rent increase and that he was successful. He stated that since that time, the Landlord has been very slow to address maintenance concerns, including sweeping the chimney, changing the furnace filters and other miscellaneous repairs. The Tenant testified that there are many repairs required at the rental unit and that he has notified the Landlord by e-mail numerous times of the repairs, but they have not been satisfactorily completed. These repairs include:

- Replacing broken blinds in the master bedroom;
- Repairing a closet door;
- Repairing kitchen cupboards;
- Repairing or replacing a rusty sink in the basement;
- Replacing dirty furnace filters;
- Repairing two burners on the stove;
- Repairing broken window with broken latches;
- Replacing mirror in downstairs bathroom;
- Replacing carpet in downstairs bedrooms;

- Repainting walls and ceilings.

The Tenant testified that there were regular inspections for the first three years of his tenancy, but none have been done in the last 6 years until the Landlord inspected the rental unit in January, 2011. Required repairs were identified, but nothing was done for 6 weeks. The Tenant testified that the Landlord sent a repair man to the rental unit in early February, but that he was only authorized to change the blinds and do some other small repairs. The new blinds did not fit the window and left a 3 inch gap in the middle. The Tenant testified that when he complained, the repairman left without completing the job. The Tenant testified that 2 weeks later, another repairman came to the rental unit, but that he did not make the repairs in a satisfactory fashion. For example, he screwed the original fronts of the cupboard drawers on, leaving ugly metal screws visible. He told the Tenant that he could not repair the doors on the closet. The Tenant testified that he paid for two furnace filters and a new shower head, but the Landlord has not refunded him for the cost.

The Tenant testified that a single pane window broke in a windstorm in December 2010 and that he advised the Landlord, but it has not been repaired. As a result, it was very cold in the rental unit during the winter months.

The Tenant stated that the carpets were old when he first moved into the rental unit and that the carpets, particularly the ones downstairs, require replacement. He stated that the rental unit requires new paint and has not been painted since he moved in.

The Tenant testified that he was particularly upset because in January he told the Landlord he was expecting guests in March, but the repairs were not made before his guests arrived and he was embarrassed.

The Tenant seeks compensation in the amount of \$4,500.00 and an Order that the Landlord complete the repairs.

The Landlord gave the following testimony:

The Landlord testified that she has not worked for the Landlord for the whole term of the tenancy and therefore could not verify the Tenant's statement that there had been no inspections (before her inspection in January, 2011) since the Tenant moved into the rental unit. She stated that the repairs, including the broken window, were required because the Tenant was careless and broke the items or didn't let the Landlord know as soon as they required repair. She stated that the sink was rusty because the Tenant didn't clean it properly. The Landlord stated that she thought the sink was new when the Tenant moved in.

The Landlord testified that the Tenant interfered with her contractors when they came in to do repairs and that one of the contractors refused to return to the rental unit.

The Landlord did not know how old the carpet was and could not confirm or deny the Tenant's statement that the rental unit had not been painted since he moved in.

The Landlord testified that the chimney was swept in the spring of this year and everything else has been repaired, with the exception of the window.

**Analysis**

The Landlord's position was that the Tenant was responsible for most of the required repairs because he did not report issues in a timely fashion, or was reckless in the treatment of doors and windows. The Tenant testified that he had repeatedly notified the Landlord about required repairs, that some of the repairs were required years ago and that the repairs still have not been completed.

A landlord has a duty under Section 32 of the Act 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. The Landlord testified that all required repairs were completed, but also testified that the broken window has not been repaired. The Landlord was vague about the age of the sink, doors, carpet and paint. The Landlord could not confirm or deny the Tenant's testimony with respect to whether there had been regular inspections. The Landlord could not provide information as to when, if any, inspections were done prior to January, 2011. For these reasons, I prefer the testimony of the Tenant. I find that the Landlord has not complied with Section 32 of the Act.

The Residential Tenancy Branch Policy Guideline #1 assigns responsibility for certain maintenance items. The following is a brief synopsis of the guideline with respect to the relevant issues:

- A tenant is generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his/her guests. A tenant is **not responsible for reasonable wear and tear, or natural deterioration that occurs due to aging** and other natural forces.
- A landlord is responsible for inspecting and servicing the furnace in accordance with the manufacturer's specifications, or **annually where there are no manufacturer's specifications**, and is responsible for replacing furnace filters, cleaning heating ducts and ceiling vents as necessary.

The Residential Tenancy Branch Policy Guideline #37 includes a table of the useful life of various items, including:

ITEM	USEFUL LIFE
Carpet	10 years
Doors	20 years

These guidelines are intended as a general guide. For example, a higher quality carpet may last longer than a standard quality carpet; or if there are no children or pets in the rental unit, indoor paint may last longer.

The Tenant did not provide sufficient evidence that the carpet required replacement and this portion of his application is dismissed.

I hereby order the Landlord to effect the following regular repairs at the rental unit within 2 months of receipt of this Decision:

1. Replace the broken window and repair the latches;
2. Replace the two burners on the stove;
3. Repair or replace hall closet doors;
4. Replace defective mirror in bathroom;
5. Replace the master bedroom blinds with a window blind that fits the window appropriately;
6. Provide blinds for the second bedroom;
7. Repair or replace the sink in the basement;
8. Repair or replace kitchen cabinets; and
9. Repair or replace bathroom cabinets.

In addition, I order the Landlord to paint the interior of the rental unit within 4 months of receipt of this Decision.

The Landlord must provide the Tenant with written notification of access to the rental unit at least 24 hours in advance, in accordance with the provisions of Section 29(b) of the Act. The Tenant has no right or obligation to be present when the Landlord is affecting repairs and I direct that he remove himself from the rental property while repairs are taking place.

I order the Landlord to reimburse the Tenant forthwith for the cost of furnace filters and the shower head, upon the Tenant providing the Landlord with proof of the cost of these items.

I dismiss the Tenant's application for compensation for damage or loss, with leave to reapply should the Landlord fail to complete the above repairs within the times frames provided.

The Tenant's application had merit and he is entitled to recover the \$50.00 filing fee. Pursuant to the provisions of Section 72(1) of the Act, the Tenant may deduct \$50.00 from future rent due to the Landlord.

### **Conclusion**

The Tenant may deduct \$50.00 from future rent due to the Landlord.

I order the Landlord to affect certain repairs (as outlined in the Analysis above) within 2 months of receipt of this decision, and to paint the interior of the rental unit within 4 months of receipt of this decision.

I direct that the Tenant remove himself from the rental property while repairs are taking place.

The Tenant's application for compensation for damage or loss is dismissed with leave to reapply should the Landlord fail to complete the repairs within the times frames provided.

I order the Landlord to reimburse the Tenant forthwith for the cost of furnace filters and the shower head, upon the Tenant providing the Landlord with proof of the cost of these items.

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: May 13, 2011.

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Residential Tenancy Branch