



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ERP, RP, RR, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking orders to have the landlord make emergency repairs; make repairs; and to reduce rent for repairs not provided.

The hearing was conducted via teleconference and was attended by the tenant and her agent.

At the outset of the hearing the tenant's agent identified that the tenant was actually seeking to have the landlord transfer her to another rental unit or in the event that was not possible to allow the tenant to end this tenancy without notice due to her health concerns related to this dispute.

I advised both parties I had no authority under the *Residential Tenancy Act (Act)* to, in essence, create a new tenancy and that I could only deal with matters regarding the current tenancy.

Further as the tenant had not applied for or provided any specific request in the details of her dispute that she was seeking to be transferred or end the tenancy without the required notice to end the tenancy, I find the landlord would be prejudiced to amend the tenant's Application to include these items and as such, I decline to amend the Application.

During the hearing the tenant identified that some tenants had rodent problems in the building but did not complain to the landlord. I asked if anyone of these tenants might be available for testimony in today's hearing. The tenant identified her neighbour who I tried to call into the hearing but got her voice messaging system only. No witnesses were called.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order to have the landlord make repairs; to have the landlord make emergency repairs; and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 33, 62, 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 August 31, 2009 for a month to month tenancy beginning in September 2009 with a monthly economic or market rent of \$849.00 and a security deposit of \$424.50 paid.

The landlord also submitted a letter dated June 16, 2011 advising the tenant that her "rent contribution" is \$242.00 and her rent subsidy is \$610.00. The landlord confirmed these details in the hearing.

The tenant submits the landlord has failed to deal with a rodent infestation both in the building and in her specific rental unit. The parties acknowledged that the tenant had complained to the landlord at or near the beginning of January 2012 about mice in her unit.

The tenant submits that between the landlord's agents and a local pest control provider several traps were set and monitored for a period of time during which two mice were caught but that the problem continues to exist, in part, because the landlord has failed to comply with the pest control provider's recommendations to treat the entire residential property. The tenant provided no documentary evidence of any recommendations provided by the provider to the landlord.

The tenant's agent submits that this treatment must be completed by licensed pest control professionals as it requires the use of poison and the tenant's agent believes there is a regulatory requirement to be licensed. The agent was unsure if it was a bylaw or a regulation that had this requirement.

The landlord submits that there have been no other complaints of mice from any of the other tenants in the 74 unit residential property and despite attempts from the landlord to investigate, by laying traps in surrounding units, no mice have been trapped elsewhere, in the building.

The landlord submitted into evidence an invoice from the pest control provider for services up to February 3, 2012 indicating no current mouse activity. The invoice included a facsimile cover sheet indicating the provider attended the unit on February 9, 2012; February 17, 2012; April 7, 2012; and April 14, 2012. There are no comments from the provider regarding the outcome of these additional visits or any mouse activity.

The tenant submits that when the pest control providers attended the unit on one occasion they removed the kick plate from around her cupboards where an abundance of rodent feces was located and that this proves there is an infestation. The landlord testified that these droppings may have been in the building during a previous infestation but that it does not confirm a current infestation.

The tenant has submitted two letters from medical practitioners. In one letter the physician confirms the tenant is pregnant and recommends the tenant should move from current housing because of rodent infestation as it creates undue health risks for her pregnancy.

The second letter indicates that both the tenant and her daughter suffer from asthma and that the tenant is experiencing a flare up in her symptoms and that the locum understands the symptoms are worsened when the tenant is at her current address and that the tenant is better when they stay away from their home.

### Analysis

To be successful in an Application for Dispute Resolution seeking an order to have the landlord complete repairs and/or emergency repairs and a rent abatement, the applicant has the burden to provide sufficient evidence to establish the following four points:

1. The rental unit/residential property requires repairs or emergency repairs;
2. That the landlord has failed to complete repairs or emergency repairs as required under the *Act*;
3. That as a result of this failure the value of the tenancy has been reduced; **and**
4. The value of the reduction in the value of the tenancy.

Section 33 of the *Act* allows a tenant to have emergency repairs completed if the emergency repairs are needed; the tenant has made at least 2 attempts to phone the landlord or their agent and following those attempts the tenant has given the landlord reasonable time to make the repairs.

The section includes defining emergency repairs as: urgent; necessary for the health or safety or anyone or for the preservation or use of the residential property, and are made for the purpose of repairing major leaks in pipes or the roof; damaged or blocked water or sewer pipes or plumbing fixtures; the primary heating system; damaged or defective locks that give access to a rental unit; or the electrical systems.

As there is no evidence before me regarding any of the above noted systems, I find the tenant has failed to establish a need for emergency repairs.

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

In the case before me, I find the tenant has failed to provide sufficient evidence that there is a current rodent infestation in the rental unit or residential property. I find, based on the balance of probabilities, in a residential property of 74 units it would be unlikely that there would be no other complaints of a rodent infestation in the building.

While I accept there have been as many as two rodents caught in traps and that there may be rodent feces found behind the kick plate in the cabinetry based on the partial documentation from the pest control provider I find the tenant has failed to provide sufficient evidence of a *current* infestation.

In addition, I find the tenant has failed to provide any evidence as to what the pest control providers had recommended the landlord complete in terms of a pest/rodent control program. Further the tenant has failed to provide any evidence of any health, safety and housing standards required by law, such as the use of a license pest control professional to bait with poison, that the landlord is failing to comply with.

Section 62(3) of the *Act* allows the director, through authority delegated to me, to make any order necessary to give effect to the rights, obligations and prohibitions under this *Act*. This section includes the ability to order the landlord to reduce the rent until such time as any repairs or emergency repairs may be completed.

As I have found the tenant has failed to establish the landlord has failed in their obligations under either Section 32 or 33 I must find the landlord is not required to provide the tenant with a rent reduction.

### Conclusion

For the reasons noted above, I dismiss the tenant's Application in its entirety.

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 02, 2012.

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Residential Tenancy Branch