



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes:**

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### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant for monetary compensation in the form of a retro-active rent abatement for the landlord's failure to fulfill a promise to replace his door within 6 weeks. The tenant's application did not specify the amount being sought, but the tenant testified that he is seeking \$100.00 off of his rent for each month of delay beyond the promised date, which totals 5.5 months.

Both parties appeared and gave testimony.

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

Is the tenant entitled to monetary compensation under section 67 of the Act for a loss of value to the tenancy caused by the landlord's delay in fulfilling its promise?

### **Background and Evidence**

The tenancy began in November 2009 and the rent is \$610.00. A security deposit of \$305.00 was paid.

The tenant testified that in February 2012, after his door was seriously damaged by a forceful entry to address a water emergency, he was promised a new door in writing by the manager. The tenant submitted a copy of the note left indicating that a new entry door would be provided within 5 to 6 weeks. The tenant testified that the landlord had repaired the door but it was left in an unsightly condition for 7 months after the damage incident. The tenant testified that, after waiting over 6 months, the tenant felt it necessary to make an application seeking some compensation for the landlord's failure to replace the door as promised. The tenant testified that the landlord finally replaced his door in November, just prior to the hearing, but he still feels that he is entitled to some compensation which he valued at \$100.00 reduction of his rent each month for the period in question.

The landlord testified that the tenant's door was repaired immediately after the incident in February 2012 and, although it was not left in a new condition, it was secure and functioned perfectly. The landlord testified that the need to break down the door had

originally resulted from the tenant's action in leaving his water faucets open when the water had been turned off during plumbing repairs to the building. The landlord testified that, had the former manager not made a clear commitment to replace the door, they would have left the repaired door in place. However, according to the landlord, they did decide to honour the promise and the tenant now has his new door. The landlord's position is that the tenant is not entitled to any compensation or rent abatement as the purported loss only consisted of a slightly marred appearance of the door and this was only the case for a limited period of time.

### **Analysis**

Section 7 of the Act states that if a party fails to comply with the Act, or tenancy agreement, the non-complying landlord or tenant must compensate the other for damage or loss that results.

The evidence must satisfy each component of the test below:

#### **Test For Damage and Loss Claims**

1. Proof that the damage or loss exists,
2. Proof that this damage or loss happened solely because of the actions or neglect of the Respondent in violation of the Act or agreement
3. Verification of the actual amount required to compensate for the claimed loss or to rectify the damage.
4. Proof that the claimant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage.

In this instance, the burden of proof is on the tenant to prove a violation of the Act or agreement and a corresponding loss.

I find that section 32 of the Act imposes responsibilities on the 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, having regard to the age, character and location of the rental unit to make it suitable for occupation by a tenant.

I do not find that the landlord violated the Act by delaying a door replacement obligation that was purely for esthetic reasons, considering the fact that the door was secure and fully functional.

That being said, the landlord did give the tenant a written promise to restore the former appearance of the door by providing a replacement within 6 weeks.

Although I have found no violation of the Act, I note that section 6 of the Act states that a party can make an application for dispute resolution seeking enforcement of the rights, obligations and prohibitions established under the Act or the tenancy agreement. Section 58 of the Act also states that, except as restricted under the Act, a person may make an application for dispute resolution in relation to a conflict dealing with: (a) rights, obligations and prohibitions under the Act; OR (b) *rights and obligations under the terms of a tenancy agreement*. (My emphasis)

I find that there was a contractual agreement made by the landlord to replace the tenant's door within a specific time frame and, based on the evidence provided by both parties, this commitment was not met within the time frame given. I find that the tenant's claim therefore satisfies elements 1 and 2 of the test for damages.

However, in order to satisfy element 3 of the test, the tenant must show that there was a genuine monetary loss or deprivation that affected the value of the tenancy. I find it difficult to assign a significant monetary value or loss for an unattractive appearance of the tenant's entry door.

Given the above, I reject the tenant's claim that he suffered a genuine loss of value of \$100.00 per month. However, I find that the tenant's perceived loss must be recognized, given the extended delay by the landlord in finally replacing the door and fulfilling the promise made. I set the amount of compensation at \$15.00 per month for the 5.5 months beyond the promised delivery date of the new door.

Based on the testimony and evidence discussed above, I hereby grant monetary compensation to the tenant for \$83.00. The tenant's next rent payment must be reduced by this amount, as a one-time abatement, thereby satisfying the claim in full.

### **Conclusion**

The tenant was partially successful in his monetary claim and was granted monetary compensation to be deducted from the next rent payment owed to the landlord.

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: November 08, 2012.

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Residential Tenancy Branch