



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ERP, RP, PSF

### Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order that the Landlord make emergency and other repairs to the unit; -  
Section 32; and
2. An Order that the Landlord to provide services required by law – Section 65.

The Tenant and Landlord were each given full opportunity to be heard, to present evidence and to make submissions.

### Preliminary Matter

During the Hearing, the Landlord stated and the Tenant confirmed that the Landlord did not receive copies of the photos submitted by the Tenant. The Landlord stated that an adjournment was not requested to review the photos.

### Issue(s) to be Decided

Is the Tenant entitled to repairs and the provision of services?

### Background and Evidence

The tenancy started on April 1, 2011. The Tenant states that the Landlord has been asked repeatedly but has failed to make repairs as follows:

Repair leak from toilet tank leak. The Tenant provided photos of the bathroom and a significant amount of mold around the toilet area that the Tenant removed. The Landlord states that the toilet was inspected last summer and stated that the problem was caused by too much heat in the unit.

Maintain heat to the unit. The Tenant states that the unit only receives heat periodically and that the Landlord controls the heat and refuses to turn it on. The Landlord denies turning off the heat, states that the heat is maintained at 70 Fahrenheit and states that to turn the heat up higher will result in higher costs to the Landlord.

Repair stove. The Tenant states that the stove has not been working and that the Landlord has failed to repair the stove. The Tenant provided a photo of the stove which is noted to be quite old. The Landlord states that they spent \$200.00 on repairing the stove a few months ago and that an electrician twice came to the unit in the past month but that nobody answered the door. The Tenant states that nobody has come to the door for repairs and that the Landlord has not informed the Tenant of repair persons coming to the unit.

Clean the gutters. The Tenant states that the gutters leak over the Tenants entrance and that the Landlord has never been seen to clean the gutters since move-in. The Landlord states that the gutters were cleaned last summer.

Repair or replace light in sensor. The Tenant states that the sensor light outside their unit and lighting the sidewalk out to the street is not working. The Tenant states that without the light, the walk is dangerous as it is dark and obstacles such as the meters are along the way. The Tenant provided a photo of the sensor and walkway. The Landlord states that the sensor is not part of the tenancy or unit and that the sensor light is not necessary as the Tenant has another light for their entrance. The Landlord agrees that to change the light bulb would be a simple matter.

The Landlord states that the Tenant is only causing issues since they served the Tenant with a three month notice to end tenancy for landlord's use. The Landlord states that he was informed of the above matters on March 12, 2013.

### Analysis

Section 6 of the Act provides that the rights, obligations and prohibitions established under this Act are enforceable between a landlord and tenant under a tenancy agreement. Section 27 of the Act provides that a landlord must not terminate or restrict a service or facility if the service or facility is essential to the tenant's use of the rental unit as living accommodation. Section 32 of the Act provides further that a landlord must provide and maintain residential property in a state of decoration and repair that makes it suitable for occupation.

Although the Landlord states that the heat has not been turned off in the unit, I find the Tenant's cumulative evidence of a bathroom leak, mold occurrence and lack of heat to be more persuasive that the Tenant has been without heat periodically. As heat to a unit is essential, I order the Landlord to immediately maintain the heat thermostat at a reasonable level and no less than 19 degrees Celsius until the tenancy ends.

I find the Landlord's evidence of having spent \$200.00 on repairs to the stove to be somewhat incredulous given the age of the stove as shown in the photo. As there is no dispute that the stove was provided under the tenancy, and considering the photos and evidence of the Tenant, I find that the Tenant has established that the stove requires repairs and I order the Landlord to either repair the stove or replace it within 7 days of receipt of this Decision.

Based on the undisputed evidence that the toilet tank leaks, and considering the evidence of mold, I find that the Tenant has established that the toilet is in need of repairs. Although the Landlord states that the heat causes the problem, I find that this does not ring true and I order the Landlord to make repairs to the toilet within 7 days receipt of this Decision.

Given the considerable conflict between the Parties, I caution the Landlord to provide notice to the Tenants when the repairs to the stove and toilet will take place in order for the Tenant to ensure that the Landlord has entrance into the unit to make repairs. I caution the Tenants to be available or make the unit available for such repairs.

Given the photos and evidence of the Tenant, I accept that the sensor light is a safety measure and is particularly important to the Tenants who exit their unit along the house and area that the sensor lights up. I therefore find that the Tenant is entitled to this light being operable and I order the Landlord to repair the sensor light within 7 days receipt of this Decision. Noting that this is the rainy time of year making it difficult to clean the gutters and accepting that the tenancy will soon end, I decline to order the Landlord to clean the gutters.

Should the Landlord fail to make repairs as ordered, I give the Tenant leave to apply for compensation.

### Conclusion

I order the Landlord to make repairs as set out above.

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: April 10, 2013

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Residential Tenancy Branch