



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 5th Avenue Investments Ltd.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RP, ERP, OLC, RR, MNDC

### Introduction

This hearing dealt with the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order requiring the landlord to make repairs and emergency repairs to the rental unit, for an order requiring the landlord to comply with the Act, for an order allowing a reduction in rent, and a monetary order for money owed or compensation for damage or loss.

The tenant attended the telephone conference call hearing; the landlord did not attend.

The tenant testified that she served the landlord with her Application for Dispute Resolution and Notice of Hearing by registered mail on July 25, 2014. The tenant supplied testimony of the tracking number of the registered mail.

Based upon the submissions of the tenant, I find the landlord was served notice of this hearing in a manner complying with section 89(1) of the Residential Tenancy Act and the hearing proceeded in the landlord's absence.

The tenant was provided the opportunity to present her evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and documentary evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (Rules); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

*Preliminary matter*-The tenant's application did not contain any particulars or details as to the breakdown of her monetary claim of \$24,000. Additionally, the tenant did not file a breakdown until she sent additional documentary evidence on August 1, 2014.

The tenant was advised that her the portion of her application dealing with a monetary claim of \$24,000 was being refused, pursuant to section 59 (5)(a) of the *Residential Tenancy Act*, because her application for dispute resolution did not provide sufficient particulars of their claim for compensation, as is required by section 59(2)(b) of the *Act*.

I find that proceeding with that portion of the tenant's application, as the absence of particulars or any documentary evidence until the evidence was received a week prior to the hearing makes it difficult, if not impossible, for the respondent to adequately prepare a timely response to the claim. Additionally there was no proof that the landlord has been served with the additional evidence.

The tenant is at liberty to re-apply for her monetary claims as a result, but is reminded to include full particulars and evidence of her monetary claim when submitting her application, and is encouraged to use the "Monetary Worksheet" form located on the Residential Tenancy Branch website; [www.rto.gov.bc.ca](http://www.rto.gov.bc.ca).

#### Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to comply with the Act, an order requiring the landlord to make repairs and emergency repairs, and for an order allowing a reduction in her monthly rent?

#### Background and Evidence

The tenant did not produce a written tenancy agreement, and instead testified that the tenancy began on September 1, 2012, monthly rent is \$795, and that she paid a security deposit of \$400 at the beginning of the tenancy.

In addition to seeking an order requiring the landlord to comply with the Act and to make repairs and emergency repairs, the tenant is seeking an order allowing a reduction in rent.

In explanation, the tenant submitted that she discovered used needles around her rental unit as early as November 2012. Additionally, the tenant stated that there is a leak and a hole in her rental unit, which the landlord has failed to address. Most concerning of all is the matter of mould present in the rental unit, according to the tenant. The mould is causing health concerns for the tenant, according to the tenant, which has caused a physical decline and death to her pets.

The tenant also submitted that the landlord has failed to fix the buzzer to the front door and the bathroom door, fan and light.

The tenant submitted that she has requested the landlord rectify all these issues, but has failed to do so.

The tenant confirmed that there has not been any written requests to the landlord about these issues, but did send the landlord a text message in February.

The tenant's relevant documentary evidence included photos of the rental unit, vet bills and statements, two witness letters, and a receipt.

### Analysis

Section 32 of the *Act* provides that a landlord must provide and maintain a residential property in a state of decoration and repair that complies with health, safety and housing standards required by law and is suitable for occupation by a tenant when considering the age, character and location of the rental unit.

Section 33 states that an emergency repairs are matters such as 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 system.

Where a tenant requests such repairs, I find the landlord must be afforded a reasonable amount of time to take sufficient action.

In this case, due to the tenant's insufficient evidence, I cannot conclude that the landlord was negligent or violated the Act regarding their requirements of addressing the required repairs or emergency repairs, as there was no proof that the tenant had notified or requested such repairs of the landlord.

I would expect the tenant, if any verbal requests had been ignored, would put her concerns or requests to the landlord in writing, with proof that the landlord had been given the requests, in order to put the landlord on notice.

If the tenant had shown proof that the landlord had been requested to make the repairs and emergency repairs, with a subsequent lack of response, I would be in more of a position to order the landlord's compliance.

I also find that the tenant submitted insufficient evidence that any of the repairs were of an emergency nature, as defined by section 33.

Due to the above, I find the tenant submitted insufficient evidence that the landlord has failed to comply with the Act by not taking reasonable measures to address the tenant's repair requests.

I therefore dismiss the tenant's request for an order for the landlord's compliance with the Act and for an order for repairs and emergency repairs.

As I have dismissed the tenant's request for such repairs and orders for the landlord, I therefore dismiss her request for an order allowing a reduction in rent.

### Conclusion

The tenant's application for an order requiring the landlord to make repairs and emergency repairs, for the landlord's compliance with the Act and for a reduction in rent is dismissed.

The portion of the tenant's application seeking monetary compensation is refused, and the tenant is at liberty to reapply for such compensation.

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: August 8, 2014

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Residential Tenancy Branch

