



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Neighbourhood Housing Society  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes                      RP, OLC, RR, PSF, MNDC

### Introduction

This hearing was convened as a result of the tenant's application for dispute resolution under the Residential Tenancy Act ("Act"). The tenant applied for an order requiring the landlord to make repairs to the rental unit, an order requiring the landlord to comply with the Act, regulations, or tenancy agreement, for an order allowing a reduction in rent, an order requiring the landlord to provide services or facilities required by law, and a monetary order for money owed or compensation for damage or loss.

The tenant, his advocate, and the landlord's agents attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

At the outset of the hearing, the landlord confirmed receipt of the tenant's documentary and photographic evidence and that they had not filed evidence themselves.

Thereafter all participants were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, photographic, 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-* I decline to hear the portion of the tenant's application for monetary compensation, pursuant to section 59 (5)(c) of the Act, because that portion of his application did not provide sufficient particulars of his claim for compensation, as is required by section 59(2)(b) of the Act.

The tenant is at liberty to re-apply for his monetary claim as a result, but is reminded to include full particulars of his monetary claim when submitting his application and is encouraged to use the "Monetary Worksheet" form (form RTB-37) 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 an order requiring the landlord to make repairs to his rental unit, to a reduction in his monthly rent, and for orders for the landlord?

### Background and Evidence

The tenant submitted without dispute that the tenancy started in February 2009 and that current monthly rent is \$356.00.

In support of his application, the tenant submitted the rental unit was in poor condition when he moved into the rental unit and that the landlord had promised to replace the kitchen countertops and surrounding unit and make other repairs; however, despite years of his requests and the landlord's promises make the repairs, the landlord has failed to do so, according to the tenant.

The tenant submitted further that his floor is quite porous and needs a wax treatment, as the surface requires him to get on his hands and knees to clean.

The tenant's other repair issue was the extractor fan in the bathroom. According to the tenant, the fan was replaced, but is without a cover, causing dust to fall in the bathwater.

The tenant submitted that the above issues are a health hazard and due to the landlord's lack of repairs and compliance with the Act, he is entitled to a reduction in monthly rent of \$50.00.

The tenant's relevant evidence included, but was not limited to, photographs of the areas of concern in his rental unit, copies of requests for repairs to the landlord, the landlord's responses, one dated March 4, 2015, and communication between the tenant's advocate and the landlord.

### *Landlord's response-*

The landlord's agent agreed that the landlord would replace the countertops and cabinets, and that due to several vacancies in the residential property, they have been unable to accommodate the tenant's request to date. The landlord thought that they could have the cabinets and countertops replaced within 2 months.

The landlord submitted that the flooring was an issue for which the tenant was responsible, as the landlord was not required to wax the floors. The landlord submitted further that they had attempted to arrange a waxing or treatment in the past; however, the tenant was not cooperative in removing his personal property. The landlord submitted further that as publicly funded housing, they do not have the resources to hire someone to assist the tenant in removing his personal property.

As to the extractor fan cover, the landlord agreed to provide one.

### Analysis

Based upon the relevant evidence and a balance of probabilities, I make the following findings:

Section 32 of the *Act* requires that a landlord must provide and maintain a rental unit in a state of 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, makes it suitable for occupation by a tenant.

I find the tenant submitted sufficient photographic and documentary evidence that the state of the kitchen counters and cupboards and the lack of a bathroom extractor fan cover fail to meet the health and housing standards as required of the landlord by the Act.

Pursuant to section 62(3) of the Act, I therefore order the landlord to immediately replace the tenant's kitchen cupboards and counter tops and to attach a bathroom extractor fan cover, no later than 1 week after receipt of this Decision.

As to the tenant's request for a reduction in his monthly rent, the evidence at the hearing and in the landlord's emails to the tenant suggests that they have not previously performed this repair work due to vacancies in their building. I find this explanation lacks logic.

I further find that the lack of response from the landlord to make the necessary repairs have caused a diminished value of the tenancy for the tenant.

Residential Tenancy Branch Policy Guideline 6 states: *"in determining the amount by which the value of the tenancy has been reduced, the arbitrator should take into consideration the seriousness of the situation or the degree to which the tenant has been unable to use the premises, and the length of time over which the situation has existed"*.

As I have accepted that the landlord's failure to make the necessary repairs have diminished the value of the tenancy, I find it reasonable under the circumstances and I therefore order that the tenant's monthly rent be reduced by \$75.00 per month, effective immediately. The tenant is directed to withhold the amount of \$75.00 from the October rent payment, and if the full rent payment is made to the landlord for October due to this Decision being made late in September, the landlord is directed and ordered to refund the amount of \$75.00.

I further authorize the tenant to reduce future monthly rent by \$75.00 until such time as the landlord has replaced of the kitchen cupboards and counter tops, beginning October 2015. Beginning October 2015, the tenant's monthly rent is \$281.00, or \$356.00 minus \$75.00. If the landlord has replaced the kitchen cupboards and counter tops by the end of October 2015, the tenant's monthly rent for November 2015, is restored to \$356.00.

Additionally, although the tenant submitted that he has requested repairs from the landlord since the inception of the tenancy, the first documented report in the evidence was through the March 4, 2015, letter from the landlord's agent to the tenant. I find the diminished value of the tenancy should be granted retroactively for \$75.00 per month from March 2015 through September 2015, or a total of \$525.00, due to the landlord's lack of effective response in March 2015.

I therefore order the landlord to compensate the tenant in the amount of \$525.00 and that this amount may be deducted from the reduced rate of rent as described below.

To give effect to this monetary award, if the tenant has paid the monthly rent for October, he may withhold the monthly rent for November 2015, in partial satisfaction of his monetary award, and the balance is to be withheld from his December 2015 monthly rent.

For clarity, if the landlord has not replaced the kitchen cupboards and counter tops by the end of October, the tenant's reduced monthly rent of \$281.00 for November 2015 is to be withheld in partial satisfaction of his monetary award of \$525.00, leaving a balance of \$244.00. If the landlord has replaced the kitchen cupboards and counter tops by the end of October, the

tenant's restored monthly rent of \$356.00 for November 2015 is to be withheld in partial satisfaction of his monetary award of \$525.00, leaving a balance of \$169.00.

Beginning in December 2015, the tenant may redeem the balance of his monetary award by making the appropriate deduction as noted above.

If the tenant is not satisfied with the repairs being made and continues to withhold rent, the landlord is required to file an application for dispute resolution to prove to the Residential Tenancy Branch that they have complied with this Decision in order to have the monthly rent restored.

I have declined to consider the tenant's request for a wax treatment on his floor, as I find he submitted insufficient evidence to show that the landlord was responsible for general upkeep for this building fixture.

### Conclusion

The tenant's application for an order requiring the landlord to make repairs and for a reduction in his monthly rent has been granted.

The tenant's monthly rent is reduced by \$75.00, beginning in October 2015, and continues until the landlord makes the ordered repairs.

The tenant has been granted a retroactive rent reduction as described 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: September 24, 2015

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Residential Tenancy Branch

