



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Homelife Property Management  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNR, MNDC, ERP, RP, FF

### Introduction

This hearing was convened by way of conference call concerning an application made by the tenants for a monetary order for the cost of emergency repairs; for a monetary order for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement; for an order that the landlords make emergency repairs for health or safety reasons; for an order that the landlords make repairs to the unit, site or property; and to recover the filing fee from the landlords for the cost of the application.

The named landlord attended the hearing and represented the landlord company. All 3 tenants also attended. The landlord and one of the tenants gave affirmed testimony, and the parties were given the opportunity to question each other respecting the testimony and evidence provided, all of which has been reviewed and is considered in this Decision.

No issues with respect to service or delivery of documents or evidence were raised.

### Issue(s) to be Decided

- Have the tenants established a monetary claim as against the landlords for the cost of emergency repairs?
- Have the tenants established a monetary claim as against the landlords for money owed or compensation for damage or loss under the *Act*, regulation or tenancy agreement, and more specifically for recovery of meal costs?
- Have the tenants established that the landlords should be ordered to make emergency repairs for health or safety reasons?

- Have the tenants established that the landlords should be ordered to make repairs to the unit, site or property?

### Background and Evidence

**The tenant** testified that this fixed-term tenancy began on March 5, 2016, expires after the first year, and the tenants still reside in the rental unit. Rent in the amount of \$1,070.00 per month is payable on the 1<sup>st</sup> day of each month and there are no rental arrears. At the outset of the tenancy the landlords collected a security deposit from the tenants in the amount of \$535.00 which is still held in trust by the landlords, and no pet damage deposit was collected. The rental unit is an apartment in the lower half of a house, and the landlord resides in the upper level, although not on a permanent basis. A copy of the tenancy agreement has been provided.

The tenants have provided a monetary order worksheet setting out the following claims as against the landlords:

- \$12.62 for sink and tub stoppers;
- \$64.24 for a smoke detector and shower curtain;
- \$1,493.67 for meals; and
- \$140.00 for labor for repairs and cleaning.

The tenant further testified that a move-in condition inspection report was completed at the beginning of the tenancy but a copy has not been provided for this hearing. However after moving in, the oven wasn't working, and the duct work had not been installed properly. The building code says that all duct work must be separated, but the stove and dryer were connected so the stove was blowing grease into the dryer. The landlord's property management group had a contractor repair the duct work in very short order, however when the tenants attempted to use the stove, power fluctuated. Elements would go on and off.

The tenants waited for an electrician who arrived on the 7<sup>th</sup> or 8<sup>th</sup> of March, 2016 and said that the issue was with the control mechanism on the stove and advised the tenants not to use the range at all. The part wasn't available anymore, but the electrician had a used one and told the tenants he would get ahold of the landlord. Finally, about March 12, 2016, the tenant got ahold of the landlord who was in China at the time who said the stove would be replaced. The stove was replaced on March 28, 2016. The tenants claim 1/3 of their meals between March 5 to March 28, 2016, and the tenant testified that they ate approximately 1/3 of their meals out. Receipts have been provided.

The tenant further testified that he replaced the smoke detector and shower curtain rod, for which the tenants claim \$64.24, as well as \$12.62 for sink and tub stoppers purchased by the tenants. Receipts for each of the items have also been provided.

With respect to the tenants' claim for repairs and emergency repairs, the tenant testified that the only entry to the rental unit is through an area that is dark at night, and the tenant would like a motion sensor light there.

**The landlord** testified that the owner lives in China and it takes time to exchange emails. The landlord tried to stay in contact with the tenants as much as she could and sometimes the tenant's phone didn't work.

The landlord told the tenant that the landlord agreed that the tenant could replace the fire alarm and shower curtain rod, but not other repairs, and the landlord would reimburse the tenants for those 2 items.

### Analysis

The *Residential Tenancy Act* defines emergency repairs:

**33** (1) In this section, "**emergency repairs**" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
  - (i) major leaks in pipes or the roof,
  - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
  - (iii) the primary heating system,
  - (iv) damaged or defective locks that give access to a rental unit,
  - (v) the electrical systems, or
  - (vi) in prescribed circumstances, a rental unit or residential property.

In this case, I am not satisfied that neither the repairs made by the tenants nor the repairs that the tenants claim reimbursement for qualify as emergency repairs. The landlords had the duct work repaired in short order according to the tenant, and the

stove, sink stoppers, and shower curtain rod are an inconvenience, not emergency repairs.

The *Act* also states that a landlord must post in a conspicuous place in the rental unit an emergency contact number for the tenants to use in case emergency repairs are required. Further, a tenant may request reimbursement for emergency repairs if the landlord fails to make the emergency repairs. The *Act* does not permit tenants to make other repairs and require the landlord to reimburse the tenant. In this case, the landlord testified that she agreed to the tenant replacing the smoke detector and the shower curtain rod, and therefore I find it reasonable to order reimbursement for such. However, the landlord did not agree to pay for sink or tub stoppers, and the tenants are free to keep them.

Where a party makes a monetary claim against another party, the onus is on the claiming party to satisfy the 4-part test:

1. That the damage or loss exists;
2. That the damage or loss exists as a result of the other party's failure to comply with the *Act* or the tenancy agreement;
3. The amount of such damage or loss; and
4. What efforts the claiming party made to mitigate, or reduce such damage or loss.

With respect to meals, I have read the emails exchanged between the parties and other evidentiary material, and considering that it is a landlord's responsibility to ensure that the appliances work, I am satisfied that the loss exists and exists as a result of the landlord's failure to comply with the *Act* and the tenancy agreement. I am also satisfied that the tenants did what was reasonable, to not use the range as directed. However, the tenants would have had to pay for food for that period of time if the range did work. I have reviewed the receipts for meals provided by the tenants, some of which are not dated. I also note that some of the receipts include steaks and seafood, and some do not specify what was purchased or it's in an indiscernible code. It is not acceptable for the tenants to order steak and seafood at the expense of the landlord.

The tenant testified that the tenants' claim is only for 1/3 of the meals between the March 5, 2016 move-in date and the date the new range was provided. I have reviewed the receipts and the tenants' Monetary Order Worksheet which appear to match, however the addition on the first page of Monetary Order Worksheet is incorrect. In the circumstances, and considering 3 tenants, I find that the tenants have established a claim for meals in the amount of \$30.00 per day over and above what it would have cost the tenants to purchase food, or \$720.00.

The tenants have not provided a copy of the move-in condition inspection report, and the tenant did not testify that cleaning was neglected by the landlord, or that the tenants' time for labor to make repairs is justified. I dismiss the tenants' claim of \$140.00 for cleaning and labor for repairs.

Since the tenants have been partially successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee.

With respect to the tenants' application for emergency repairs and other repairs, the tenant testified that he would like to see a motion detector light at the door that gives access to the rental unit. The *Residential Tenancy Act* does not provide a wish-list for a tenant. The *Act* states that it is a landlord's responsibility to repair and maintain residential property in a state of decoration and repair that makes it suitable for occupation. The tenant did not testify that lack of a light or a sensor light cause any safety issues. I am not satisfied that the tenants have established that a new sensor light is necessary for health or safety reasons as an emergency, nor does lack of a sensor light constitute a failure of the landlords to repair or maintain residential property in a state of decoration and repair that makes it suitable for occupation by a tenant. The tenant's application for an order that the landlords make repairs to the unit, site or property is dismissed. Similarly, the tenants' application for an order that the landlords make emergency repairs for health or safety reasons is also dismissed.

In summary, I find that the tenants have established a monetary order as against the landlords in the amount of \$64.24 for the shower curtain rod and smoke detector, and \$720.00 for meals. The tenants' application for an order that the landlords make emergency repairs for health or safety reasons, and the tenants' application for an order that the landlords make repairs to the unit, site or property are dismissed.

Since the tenants have been partially successful with the application, the tenants are also entitled to recovery of the \$100.00 filing fee.

I order that the tenants be permitted to reduce rent for a future amount by \$884.24, or may otherwise recover it.

### Conclusion

For the reasons set out above, the tenants' application for an order that the landlords make emergency repairs for health or safety reasons is hereby dismissed.

The tenants' application for an order that the landlord make repairs to the unit, site or property is hereby dismissed.

I hereby grant a monetary order in favour of the tenants as against the landlords pursuant to Section 67 of the *Residential Tenancy Act* in the amount of \$884.24 and I order that the tenants be permitted to reduce rent for a future month by that amount or may otherwise recover it.

This order is final and binding and may be enforced.

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 06, 2016

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Residential Tenancy Branch