



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ADVANCED PROPERTY MANAGEMENT  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes            RR, RP

### Introduction and Preliminary Matter

This hearing convened as a result of a Tenant's Application for Dispute Resolution wherein he sought an Order pursuant to section 65(1) that he be permitted to deduct the cost of repairs, services or facilities from the rent, as well as an Order that the Landlord make repairs to the rental unit.

Both parties appeared at the hearing. The hearing process was explained and the participants were asked if they had any questions. Both parties provided affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and make submissions to me.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the rules of procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

During the hearing the Tenant confirmed that he is not seeking a repair order.

### Issue to be Decided

1. Is the Tenant entitled to a rent reduction pursuant to section 65(1)?

### Background and Evidence

Introduced in evidence was a copy of the tenancy agreement which confirmed this tenancy began August 1, 2013. At the time the tenancy began, monthly rent was \$600.00. The Tenant confirmed that his current rent is approximately \$634.00. He also confirmed he has provided post-dated cheques for this amount.

The Tenant's application relates to charges levied by the Landlord for the repair of a fire door and the cost of the attendance of a fire inspector in February of 2014. Introduced in evidence was a letter from the Landlord dated March 11, 2014 which enclosed the related invoices. Those invoices confirm the Landlord sought \$114.22 for the repair of the electrical/fire room door as well as \$105.00 for the cost of the fire inspection for a total of \$219.22.

These charges were levied pursuant to paragraph 22 of the tenancy agreement which reads as follows:

*Should a repair item be deemed by the tradesperson to be the result of the Tenant's misuse or neglect of the premises, appliances, or fixtures, the Tenant will be billed the cost of such repairs as additional rent.*

The Tenant admitted that he hit the heat detector with a lamp when he was moving into the rental unit and that this caused the alarm to sound. He stated that he called his friend S.G., who went in the room to turn off the alarm. He also stated that he did not damage the door, that it was in fact open at the time.

The Tenant testified that he previously was a building manager in a resort community near the city in which the rental unit was located. He stated that when the alarm went off he called his friend, S.G., as he knew him from this community, and knew S.G. was a fire inspector.

The Tenant further testified that the fire inspection undertaken by the Landlord was inappropriate as he had taken care of the issue.

The Tenant denies damaging the electrical/fire room door. The Tenant further stated that the owner, L.F., claimed that they had a witness who said the Tenant damaged the door. The Tenant testified that he has never been provided with this person's name.

Introduced in evidence was a letter dated April 19, 2016 written by L.A., who writes that they had "witnesses in the building [who] state it was [the Tenant] that had forced open the door and tried to reset the panel after [the Tenant] had set off the fire alarm by accident".

The Tenant claimed that he had no way of contacting the Landlord at the time of the incidence as he was not provided a number for emergencies as he had just moved in.

The Tenant's friend, S.G., also testified. He stated that he is a licensed electrician, has a contractor's license, and has an Associated Science and Training Degree which is a required degree to do fire inspections. He also stated that he has worked in the fire alarm business for many years.

S.G. stated that he was in the community in which the rental unit was located on February 19, 2014. He said that the Tenant called him and told him that the fire alarms were going off. S.G. then drove over to the rental building in his service truck to assist the Tenant.

S.G. stated that the heat detector in the rental unit was defective and causing the fire alarm to go off. S.G. stated that he then went to the electrical/fire room. S.G. confirmed that because he is a certified technician, he has a key to the door. He stated that despite having the key, the door was open and he was therefore able to silence the alarm. He also stated that he put a new heat detector in the rental unit and replaced the batteries in the smoke detector. S.G. stated that the fire inspector was there. S.G. testified that he charged the Tenant for the heat detector and left.

S.G. confirmed that they did not damage the door to the fire room and again stated it was open when he arrived. S.G. also stated that the door was an interior door.

C.M. testified on behalf of the Landlord. She stated that the Tenants are provided with the Landlord's after-hours emergency number, which is on the first page of their tenancy agreement. The tenancy agreement introduced in evidence clearly notes as follows:

*"AFTER HOUR EMERGENCIES: [phone number withheld]"*

C.M. stated that the Landlord received a call from another resident who stated that the fire alarm was going off as someone had broken into the electrical/fire room. C.M. confirmed that the Landlord was not 100% sure as to whether the Tenant, or his friend broke the door, as they were relaying on the information provided by this other renter. C.M. stated that this other resident was not willing to be a witness at the hearing. C.M. confirmed that it was possible that the other renter did not realize the door was already broken.

C.M. further testified that after the call they hired a local fire alarm company to inspect the situation as the panel stated that the fire alarm was still "in alarm". At the time they were not aware that the Tenant's friend had replaced the heat detector. C.M. further testified that the Tenant did not call and inform them of what had occurred and as such they had no other option but to hire someone to inspect the system.

In reply to the Landlord's response, the Tenant testified that he didn't read the tenancy agreement and "certainly didn't read the emergency number". He confirmed that he was only just recently became a tenant as he was in property management for many years at a local ski resort.

The Tenant initially stated that he did not receive the invoices until this year, 2016, despite this incident occurring two years prior. He then confirmed that he received the invoices in 2014.

### Analysis

The Tenant seeks to have the sum of \$219.22 in disputed charges removed from his rental account. The Landlord confirmed at the hearing that they had not taken any steps to pursue payment of these amounts, but that they believed the Tenant was responsible for paying for them and as such they are noted as a debit on the Tenant's rental account.

The Landlord conceded they were not certain who had broken the fire door. The information they received was from a third party who was not willing to attend the hearing and give evidence. The Tenant and his friend adamantly deny breaking the door and state it was open.

I accept the evidence of the Tenant and his witness, G.F. in this regard. I found them both to be forthright and consistent in their testimony.

Based on the evidence before me, and on a balance of probabilities, I find the Tenant is not responsible for the repairs to the broken electrical/fire door; accordingly, the charge of \$114.22 is to be removed from the Tenant's account.

The Tenant admitted to hitting the heat detector in his rental unit with a lamp while he was moving.

I accept the Tenant's evidence that he believed calling G.F. was the proper course of action. G.F. certainly has the credentials and experience to deal with such a situation and it seems the two of them have a history of working together. In doing so the Tenant took a corrective course of action based on his previous dealings with G.F.

The Tenant testified that he was a building manager for many years. It is likely that the transition from building manager to tenant was not immediate and that it took some time for the Tenant to realize the change in his role.

While I accept that G.F. handled the situation effectively, his actions were not conveyed to the Landlord. In neglecting to do so, the Landlord incurred the cost of hiring a local fire inspection company. I accept the Landlord's evidence that the fire panel indicated that it was in "alarm" and further find that to ignore this would have been negligent.

While the Tenant's actions may have been sufficient while he was a property manager, they were insufficient in his new role as a tenant. The Tenant was obligated to call the Landlord in this situation, and in any case to inform the Landlord of the steps taken by G.F. I do not accept the Tenant's evidence that he was unaware how to contact the Landlord. This information is clearly provided on his tenancy agreement. The consequences of the Tenant's failure to note the Landlord's emergency contact number should not be borne by the Landlord.

In consideration of the above, and on a balance of probabilities, I find the Tenant is liable for the costs associated with the fire inspection in the amount of \$105.00. It is the Landlord's decision how to deal with this outstanding amount.

### Conclusion

The Tenant's request to have charges removed from his rental account is granted in part.

- I find that the Tenant is not responsible for the repairs to the electrical/fire room door in the amount of \$114.22 as the evidence does not establish that the Tenant, or persons acting on behalf of the Tenant, caused this damage.
- I further find that the fire inspection charges of \$105.00 are appropriate charges as they were incurred due to the Tenant damaging the heat detector in his rental unit. While he contacted a fire inspector with whom he was familiar, he failed to convey this to the Landlord; as a consequence, and to honour their responsibility to maintain the safety and well-being of other occupants, the Landlord incurred the cost of a further fire inspection.

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: June 30, 2016

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Residential Tenancy Branch

