



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding Royal Providence Management Inc  
And (tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RP, ERP, PSF, RR, OLC, FF

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking orders to have the landlord complete repairs and emergency repairs; provide services or facilities; and a rent reduction.

The hearing was conducted via teleconference and was attended by the male tenant and the landlord's agent.

### Issue(s) to be Decided

The issues to be decided are whether the tenant's are entitled to an order to have the landlord complete repairs and emergency repairs; to provide services and facilities required by law or the tenancy agreement and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 27, 32, 33, 65, 67, and 72 of the *Residential Tenancy Act (Act)*.

### Background and Evidence

The landlord submitted into evidence a copy of a tenancy agreement signed by the parties on July 9, 2013 for a 1 year fixed term tenancy beginning on August 1, 2013 that converted to a month to month tenancy on August 1, 2014 for the current monthly rent of \$1,588.75 due on the 1<sup>st</sup> of each month with a security deposit of \$775.00 paid.

The tenant submitted they have had problems with the roof leaking since they have moved into the rental unit and despite the landlord having someone complete repairs a couple of times the repairs were only temporary and the problem would re-occur.

The landlord submitted that they had attempted patch repairs over the course of the tenancy in an attempt to not have to replace the entire roof system. However, the parties agreed that since the tenants have made their Application for Dispute Resolution the landlord had commenced an entire roof replacement and the replacement is nearly complete as of the date of this hearing.

The tenant did note that while exterior work on the roof appears to be nearly completed the landlord has made no attempt to repair the interior damage caused by the leak. The landlord confirmed the plan is to complete that work once the exterior work is completed.

The tenant submitted that they have also been requesting the landlord to replace a door from their unit to their deck for a couple of years. The landlord submitted that the door is an odd size and the only replacement they can obtain is a solid door but the female tenant has declined to accept the installation of the door because it would reduce the light in the rental unit.

The male tenant could not confirm if the female tenant had refused to accept the solid door. However, in his testimony the tenant did indicate that the door was a significant light source as it was a glass door and that any replacement should not be a solid door.

The tenant provided testimony on several issues related to their outdoor space including issues about the pallet fence falling down, being gathered in one place and the landlord telling the tenants they had to remove it and that they had to remove their furniture from the roof as it was damaging the roof. The tenant acknowledged the pallet fence has been removed.

The tenants seek orders to have the landlord complete the roofing and interior work related to leaks and to have the patio door replaced. The tenants also seek a rent reduction to \$1,450.00 per month or \$138.75 until the work is complete.

The final issue raised by the tenant was a recent development. He stated that they had received a letter a couple of weeks ago that the effective the date of the hearing the landlord was no longer allowing the tenant to use the locker they have been using since the start of the tenancy to store their bikes.

The landlord referred to the tenancy agreement stating that the agreement does not address the provision of a storage locker. The landlord submitted that while it was not a part of the tenancy agreement the tenants were allowed to use the storage locker on a temporary basis. The landlord confirmed that they have been using the locker exclusively since the start of the tenancy (August 2013).

### Analysis

Section 32(1) of the *Act* requires the landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety, and housing standards required by law and having regard to the age, character and location of the rental unit make it suitable for occupation by a tenant.

Section 32(3) stipulates a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

I accept both parties agreed that the roofing problem has existed since the start of the tenancy. From the evidence and testimony of both parties I find that while the roofing problem has been occurring since the start of the tenancy it was a reasonable response for the landlord to make minor repairs initially to see if that would resolve the problem. I also find that after repeated unsuccessful attempts to patch repair the roof it was reasonable for the landlord to escalate the repair to a full roof repair.

In regard to the replacement of the door I accept that the landlord's testimony that they have attempted to replace the patio door but was not able to complete the repair as a result of the female tenant's refusal to accept a solid door.

For these reasons, I find the landlord has taken appropriate and reasonable actions to complete and/or attempt to complete the repairs as outlined by the tenants. I accept that the landlord is nearly completed the roof repairs and I have no reason to doubt that the landlord will not complete the interior work resulting from the roof leaking.

As such, I find the tenants have failed to establish the landlord has not complied with their obligations under Section 32(1) and I decline to issue orders for the landlord to complete roof repairs or the related interior work. I note however, that should the landlord fail to complete this work within a reasonable time after this decision is received I grant the tenants liberty to file a new Application for Dispute Resolution seeking compensation.

As to the replacement door, I find that it was the female tenant's refusal to accept the landlord's proposed repair solution that has restricted the landlord's ability to repair the door. As such, I again find the tenants have failed to provide evidence to establish the landlord has not complied with their obligations under Section 32(1) and I decline to issue an order to have the landlord complete the door replacement and/or repair.

I also note that a landlord is entitled to make repairs to a rental unit or residential property as they see fit. Refusal by a tenant to allow a landlord to make such a repair may result in additional damage to the property that may not have occurred if the tenant had allowed the landlord to make the repair. As such, it may give rise to a landlord seeking compensation for damage to a property, pursuant to Section 32(3) or potentially as a contributory cause to end a tenancy in accordance with Section 47 of the *Act*.

Section 65(1)(f) of the *Act* states that if the director finds that a landlord or tenant has not complied with the *Act*, the regulations or a tenancy agreement the director may order that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement.

As I have found the landlord's responses to the roofing issues and the tenant has caused the landlord to not be able to complete the door repairs and that the landlord has not violated their obligations under Section 32(1) of the *Act* I dismiss the tenant's claim for a rent reduction.

Section 27 of the *Act* states 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 or providing the service or facility is a material term of the tenancy agreement.

The section goes on to state that the landlord may restrict or terminate a service or facility that is not essential or a material term if the landlord gives 30 days' written notice of the termination or restriction, and reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

In regard to the storage locker, despite the landlord's testimony that the storage locker was not a part of the tenancy agreement I find that by the landlord allowing the tenants exclusive use of it for the entire duration of the tenancy it has become a facility provided to the tenants as a part of their tenancy.

As such, the landlord is required under Section 27 of the *Act* to provide 30 days' written notice of their intent to terminate the service and then reduce the rent by an appropriate reduction in the value of the tenancy. Therefore, I order the landlord must reinstate the use of the storage locker until such time as the landlord complies with the requirements of Section 27.

### Conclusion

As the primary issues of the tenants' Application have been dismissed and the issue of the storage was an additional matter raised after the tenants' had submitted their Application I dismiss the tenant's claim to recover the filing fee for this Application.

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 10, 2016

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Residential Tenancy Branch