



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### Dispute Codes:

**RR**

### Introduction

This hearing was scheduled in response to the tenants' Application for Dispute Resolution, in which the tenants requested compensation via rent reduction for repairs requested but not provided.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing and to present affirmed oral testimony.

### Preliminary Matters

The landlord confirmed receipt of the tenants' application made on September 18, 2016. The documents were received prior to the end of September 2016, including evidence.

On October 12, 2016 the tenants amended the application from a claim in the sum of \$32.81 for the period of September 2016 onward, to a claim in the sum of \$537.50. The amended application was given to the landlord on November 1, 2016. Section 4.6 of the Rules of Procedure provides; in part:

*In any event, a copy of the amended application and supporting evidence should be served on the respondents as soon as possible and must be received by the respondent(s) not less than 14 days before the hearing.*

The tenants stated that they did not understand that the amended application must be given to the landlord at least 14 days prior to the hearing.

Therefore, I find that the amended application was not served at least 14 days before the hearing and that the application will proceed based on the sum claimed in the original application made on September 18, 2016.

Issue(s) to be Decided

Are the tenants entitled to compensation in the sum of \$32.18 for each of September and October 2016 as loss based on repairs agreed upon but not provided?

Background and Evidence

The tenancy commenced on September 1, 2014. The tenancy ended effective November 1, 2016, at which point the tenants security deposit was returned. The landlord had issued a Notice ending tenancy for cause and the tenants chose to accept the Notice and vacate.

The tenants have claimed compensation from the time of the application until repairs were completed to the bathtub, lights and dryer.

During the hearing I determined that there was no loss in relation to the dryer. The tenants confirmed the dryer had been repaired at some point in the spring of 2016 and that the dryer functioned up until the time the tenants' vacated. The tenants did not suffer any loss of use.

The tenants said that the light in a bedroom never functioned properly. It would flicker, dim, not function at all and that at times it would work. The laundry room light did not work. The landlord had provided a floor lamp for use in the laundry room. The tenants said that at the time they moved into the unit the landlord had promised to repair the lights. The tenants spoke to the landlord on a number of occasions; asking that the lights be repaired.

On July 30, 2016 the tenants wrote the landlord as a reminder to the request made in the fall of 2015 to have the bathtub repaired. The tub had been painted and the paint was peeling. The tenants supplied two photos of the bathtub for the landlord to view. The photos were supplied as evidence and showed a tub that had large areas that appeared to have lost the surface coating.

On August 2, 2016 the landlord had promised to repair the bathtub but a new roof was required which was costly. The landlord did not have the money to make the repair and as the tub was functional the repair could wait

On September 5, 2015 the tenants sent the landlord an email asking that the light fixtures be repairs; reminding the landlord the tenants were told they would be fixed at the start of the tenancy. The tenants said they had last asked for repair in the fall of 2015. The tenants wrote that the dryer was making a laboured sound. The tenants asked when the bath tub would be repaired or replaced.

The landlord stated that the claim is frivolous. The landlord had responded to the tenants on September 5, 2016 stating the tenants already knew her position on the bathtub repair and that the tenants should not bother the landlord about that issue. The

landlord wrote that the laundry room light has never worked and that the tenants had a floor lamp provided to them. The landlord wrote that if the bedroom light was broken the tenants must be responsible as it worked when the unit was rented to the tenants. The landlord suggested the tenants check the bulbs.

The landlord said that the light in the bedroom is working and there is no need for repair. The bathtub was functional and usable. The landlord plans on removing the tub as it is an old claw-foot that would be expensive to repair. The landlord asked the tenants to wait for repair. When asked about the September 5, 2016 email the landlord said the tenants were told to wait four weeks. The tenants had placed a mat on the tub and the peeling paint could not be seen. The landlord referenced photos supplied by the tenants and said this was a cosmetic issue.

The tenants said they had to purchase the mat to place over the peeled area. The landlord said a little peeling paint was not the end of the world. Many repairs had been made to the unit with is 100 years old and the landlord had not been able to get the tub repaired due to cost.

### Analysis

Residential Tenancy Branch policy suggests that a party may apply for compensation to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred.

Section 32 of the Act sets out the landlord's responsibility for repair:

### ***Landlord and tenant obligations to repair and maintain***

**32** (1) *A landlord must provide and maintain residential property in a state of decoration and repair that*

*(a) complies with the health, safety and housing standards required by law, and*

*(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.*

*(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.*

*(3) 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.*

*(4) A tenant is not required to make repairs for reasonable wear and tear.*

*(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.*

From the evidence before me I find that from the start of the tenancy the landlord was aware of the need to repair the bathtub and bedroom lighting. These are repairs that could reasonably be an expected housing standard.

The tenants sent the landlord two reminders in 2016; one in August regarding the tub and the next on September 5, requesting lighting and tub repair. From the evidence before me I find the landlord was well aware of the need to repair the tub and had agreed to repair the tub. I can find no evidence to support the tub as being unusable but maintenance of the tub was clearly lacking. The photos show what I find to be a considerable amount of surfacing missing from the bathtub. It is not unreasonable to accept that paint peeling from the interior of a tub would affect the value of that fixture in a tenancy. Even if the landlord could not fully repair the tub efforts could have been made to mitigate the damage; but no steps were taken.

Therefore, I find that the tenants did suffer a loss of value of the bathtub and that the sum of \$20.00 for each of September and October 2016 is reasonable compensation. The bathtub was not rendered unusable but the state of the bathtub was deficient and by the landlords' own submission, repair was needed and not completed.

I find on the balance of probabilities that no later than September 5, 2016 the landlord was aware of the need to have the wiring investigated. Suggesting the tenants check the bulbs is what I find to be an inadequate response. In relation to a loss of value I find that the absence of a fully operational light in one bedroom is valued in a nominal sum of \$5.00 per month for September and October 2016.

Therefore, I find that the tenants are entitled to compensation in the sum of \$50.00 for the loss of value of the tenancy due to repairs required and not completed.

The dryer was functional and, as explained during the hearing, the claim for loss of use is dismissed. The laundry room had a floor lamp, which I find accommodated the need for light in that room.

As the application has merit I find, pursuant to section 72 of the Act that the tenants are entitled to recover the \$100.00 filing fee from the landlord for the cost of this Application for Dispute Resolution.

Based on these determinations I grant the tenants a monetary order in the sum of \$150.00. In the event that the landlord does not comply with this order, it may be served on the landlord, filed with the Province of British Columbia Small Claims Court and enforced as an order of that Court.

The balance of the claim is dismissed.

Conclusion

The tenants are entitled to compensation in the sum of \$50.00.

The tenants are entitled to filing fee costs.

The balance of the claim is dismissed.

This decision is final and binding and 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: November 08, 2016

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Residential Tenancy Branch