



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      RP, FF

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* ("the Act") for an order that the landlord make repairs to the rental unit pursuant to section 33 and authorization to recover the filing fee for this application from the landlord pursuant to section 72.

The tenant and the landlord's representative/wife ("the landlord") attended this hearing. The landlord acknowledged receipt of the tenant's Application for Dispute Resolution. She also indicated that she submitted both documentary evidence and photographic evidence to the Residential Tenancy Branch on February 28, 2017. She indicated that she did not know she was required to provide her evidentiary materials to the tenant. The Notice of Dispute Resolution sent to each party prior to hearing states, "Evidence to support your position is important and must be given to the other party... before the hearing" and therefore the landlord should have been aware of her obligation regarding service of evidence.

### Preliminary Issue: Provision of Evidence

Rule 3 of the Dispute Resolution Rules of Procedure provide that evidence to be used at a dispute resolution hearing must be submitted "not less than 14 days before the hearing." (Rule 3.14) An arbitrator may consider evidence provided after this deadline if the "late evidence does not unreasonably prejudice one party or result in a breach of the principles of natural justice." (Rule 3.17) In this case, the tenant did not have any opportunity to review the evidence submitted including witness letters that were being relied upon for their veracity as well as to rebut the tenant's claim. Given that these materials were provided late and that the landlord failed to provide their evidence to the tenant at all, I find that these materials cannot be considered in deciding this matter.

Issue(s) to be Decided

Is the tenant entitled to an order to the landlord to make repairs to the rental unit?

Is the tenant entitled to recover the filing fee for this application from the landlord?

Background and Evidence

The tenant and landlord agreed that the tenant has resided in the rental unit for one year. Both parties agreed that there is a written tenancy agreement reflecting a month to month agreement with a rental amount of \$1200.00 paid on the first of each month. As the tenancy is ongoing, the landlord continues to hold a \$600.00 security deposit. The tenant sought repairs to the door of his rental unit.

The tenant testified that the door that provides entrance to his rental unit has been cracked for some time but that recently the crack increased and the wooden panel in the door fell out. The tenant described the door as unstable and flimsy. The tenant stated that, while the door can lock, the door could also be pushed or kicked in to open. The tenant provided undisputed testimony that the rental property is approximately 45 years old and in poor repair generally.

The landlord testified that the tenant damaged the door when moving items in and out of the rental unit. She stated that the tenant told her property manager that he had damaged the door. She stated that, due to a medical condition, the tenant cannot remember making this disclosure. The property manager was not available to provide witness testimony. The landlord indicated she submitted a statement by the property manager however this statement cannot be considered as it was not served to the tenant for his review and consideration.

The tenant disputed the suggestion that he damaged the door himself. He testified that he has not made a written request but has made several verbal requests for the door to be repaired. He says that, in its current condition the door lets cold air in as well as being a safety hazard. The tenant testified that, when he requests that the landlord repair the door, he is told that he should bear the cost of the repair himself. He requested an order that the landlord repair his door and that he recover his filing fee.

Analysis

Section 32 and Residential Tenancy Policy Guideline No. 1 describes the obligations of both a landlord and a tenant to repair and maintain a rental property.

*The Landlord is responsible for ensuring that rental units and property... meet "health, safety and housing standards" established by law, and are reasonably suitable for occupation given the nature and location of the property. The tenant must maintain "reasonable health, cleanliness and sanitary standards" throughout the rental unit or site, and property ... The tenant is generally responsible for paying cleaning costs where the property is left at the end of the tenancy in a condition that does not comply with that standard. The tenant is also generally required to pay for repairs where damages are caused, either deliberately or as a result of neglect, by the tenant or his or her guest.*

In this circumstance, the tenant disputes that he caused damage to the door. The landlord was unable to provide evidence to prove that the tenant caused damage to the door. I accept the testimony of the tenant finding that the tenant was candid and consistent in his testimony recalling the history of the damage to the door. I do not accept the testimony of the landlord with respect to the allegation that the tenant damaged the door himself. The landlord acknowledged that she had no personal knowledge of this matter and could only provide hearsay testimony of limited evidentiary value. I accept the testimony of the tenant that the current state of repair of the tenant's door fails to meet health, safety and housing standards in that it does not close or protect the tenant from the elements.

The landlord acknowledges receiving the multiple verbal requests by the tenant regarding the door. In these circumstances, I find that a door that locks and provides protection from inclement weather is an essential and basic characteristic of a rental property. As a functional door is essential, the tenant is entitled to an order requiring the landlord to further repair the door to a condition that protects the tenant's safety and health.

As the tenant was successful in his application, I find that the tenant is entitled to recover his \$100.00 filing fee.

### Conclusion

I order that the landlord repair the tenant's entrance door to meet satisfactory safety standards. Specifically, I order that the landlord repair the tenant's entrance door so that it cannot be opened without a key (it locks). I also order that the landlord ensure the door is sealed in that it does not allow cold air to enter the rental unit (it does not have openings or holes in the door itself).

The tenant is entitled to a \$100.00 rent reduction for the month of April 2017 if the landlord has not repaired the door by April 1, 2017. The tenant is entitled to a \$200.00 rent reduction for the month of May 2017 if the landlord has not repaired the door by May 1, 2017. The tenant is entitled to a \$300.00 rent reduction for the month of June 2017 if the landlord has not repaired the door by June 1, 2017. The tenant may continue to decrease his rent by an additional \$100.00 each month until the landlord sufficiently repairs or replaces the door.

Further, regardless of whether the landlord makes repairs prior to April 1, 2017, I allow the tenant to reduce his April 2017 rent by \$100.00 (from \$1200.00 to \$1100.00) for this month only as compensation for his payment of a filing fee in this matter.

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: March 06, 2017

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Residential Tenancy Branch