



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      CNL FF O OPT RP RR

### Introduction

This hearing was convened in response to applications by the tenants pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

The application from the tenants requested:

- a cancellation of a 2 month notice to end tenancy for landlords’ use of property pursuant to section 49 of the *Act*;
- an order compelling the landlords to repairs pursuant to section 33 of the *Act*;
- a reduction in rent for repairs, services or facilities agreed upon but not provided pursuant to section 65 of the *Act*; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72 of the *Act*.

Both the tenants and the landlords attended the hearing. The landlords were represented at the hearing by their son, A.P. (the “landlord”), while tenant, K.R., presented submissions for the tenants. Both parties were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The tenants confirmed receipt of the landlords’ 2 Month Notice for Landlord’s Use of Property (“2 Mont Notice”) issued in person on August 23, 2017. Pursuant to section 88 of the *Act* the tenants are found to have been duly served with the landlords’ 2 Month Notice.

The landlords confirmed receipt of the tenants’ application for dispute resolution and evidentiary packages by way of Canada Post Registered Mail. Pursuant to sections 88 & 89 of the *Act* the landlords are found to have been duly served with these documents. Following opening remarks, the landlord explained that he no longer required vacant possession of the rental unit. The landlord confirmed that he was no longer seeking an Order of Possession and withdrew the 2 Month Notice dated August 23, 2017.

I explained to the landlord that withdrawing the 2 Month Notice would allow the tenancy to continue until it was ended in accordance with the *Act*. The landlord confirmed that he understood this and confirmed that he wished to withdraw the 2 Month Notice dated August 23, 2017.

As the 2 Month Notice has been withdrawn, I will solely focus on the tenants' application concerning repair orders, a reduction in rent and a return of the filing fee.

#### Issue(s) to be Decided

Should the landlords be directed to make repairs to the unit, site or property?

Should the tenants be provided with a reduction in rent for repairs, services or facilities agreed upon but not provided?

Are the tenants entitled to a return of the filing fee?

#### Background and Evidence

The tenants explained that this tenancy began on January 15, 2011. Rent is \$1,947.85 per month and a security deposit of \$900.00 collected at the outset of the tenancy continues to be held by the landlords.

The tenants stated that they were seeking a reduction in rent in the form of a rent credit equal to 1 month's rent, or \$1,947.85. Additionally, they wished for an order to be made directing the landlords to perform repairs to a downstairs ceiling and to fix a wall under the kitchen sink. The tenants explained to the hearing that there had previously been some issues around leaking pipes and these holes had resulted from water damage that occurred and from work done to the pipes.

During the hearing the tenants argued that 1 month's rent as compensation for rent reduction was justified because it took 44 days between the day they reported the leak in the ceiling and the time it took the landlords to investigate the issue.

In addition to the reduction in rent, the tenants are seeking an Order directing the landlords to complete the work related to the downstairs ceiling and the wall under the kitchen sink. They explained they have been forced to live without an entire wall as it was removed to fix an ongoing leak.

The landlords acknowledged that repairs were required in the rental unit but questioned the necessity of providing the tenants any form of rent reduction or compensation related to these repairs. Furthermore, the landlord stated that the repairs which were being requested were significant and extensive. He said that a large undertaking would be required to fix the home and that he would require vacant possession of the rental unit. The landlord said he was attempting to accommodate and balance the needs of the tenants with the need to repair the unit.

The landlord said that his father, who is the owner of the property, was only recently made aware that any repairs were required, and he said once notified his father took immediate steps to rectify the problems. The landlord explained that the tenants never contacted his father directly. When asked about this, the tenants confirmed that they had contacted the landlord's sister (who is their neighbour) and had informed her of the issues concerning the repairs. The tenants explained that contacting the landlord's sister had been their form of communication with the landlords since the beginning of the tenancy.

### Analysis

The tenants have applied for an Order directing the landlords to complete repairs to the rental unit, and for a reduction in rent related to repairs agreed upon but not provided.

At the hearing the tenants explained that it took the landlords 44 days to address the issue of a leaking pipe. They said that once repairs were made, they were left with two significant holes in their walls. The landlord stated that the required repairs were "not patch jobs" and that a large amount of work was required to identify and fix the issues related to the leaking pipes.

I find that the landlords have made slow, yet significant attempts to address the concerns of the tenants. At the hearing the landlord testified that he was aware that a problem related to the walls and ceiling existed and acknowledged that repairs were required. I accept the landlords' explanation that he was attempting to accommodate the tenants by allowing them to remain in the rental unit, while repairs were being undertaken to identify the source of a leak. Furthermore, I find that the lines of communication between the parties whereby the tenants contact the neighbour (who is the landlord's sister) to be inefficient and impractical.

Based on the oral testimony of the tenants it is evident that some repair work is required in the unit. I find that the tenants' application for a reduction of rent equivalent to

\$1,947.85 to be excessive in light of the efforts made by the landlords to accommodate the tenants. With this in mind, I must consider the fact that the tenants are presently living in a rental unit with a hole in the ceiling and a missing wall.

I decline to order the landlords to make repairs to the rental unit, but will allow the tenants to deduct \$100.00 from future rent payments to encourage repair of the holes in the downstairs ceiling and the wall under the kitchen sink. This reduction in rent is to take effect on the next rent payment.

As the tenants were partially successful in their application, they may recover the \$100.00 filing fee from the landlords. Pursuant to section 72 of the *Act*, and in lieu of a monetary award, I allow the tenants to deduct a further \$100.00 from one future rent payment in satisfaction for a return of the filing fee.

### Conclusion

The landlords' 2 month notice is withdrawn. This tenancy shall continue until it is ended in accordance with the *Act*.

The tenants may withhold \$100.00 from a future rent payment on one occasion for a future rent payment in satisfaction of a return of the filing fee.

The tenants may deduct \$100.00 from a future rent payment until the hole in the downstairs ceiling and the wall under the kitchen sink is repaired.

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: November 22, 2017

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Residential Tenancy Branch