



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ERP, RP, MN

### Introduction

This hearing convened as a result of a Tenant's Application for Dispute Resolution wherein he requested an Order that the Landlord made repairs to the rental unit, emergency and otherwise. During the hearing on February 8, 2018 the Tenant stated that he filed an Amendment wherein he confirmed that he also sought monetary compensation in the amount of \$10,000.00.

The hearing originally occurred by teleconference on November 21, 2017. The matter was adjourned as I was not satisfied that the persons calling in on behalf of the Landlord were authorized to act. By Interim Decision dated I ordered that the Landlord's agents provide proof of their agency status. In that same Interim Decision I also Ordered that the Tenant provide a detailed list of requested repairs, delineating which ones were emergency repairs.

The parties complied with my Interim Decision: the Landlord confirmed T.S. as his agent; as well, the Tenant provided an email which set out in detail his requests for repairs, emergency and otherwise.

The hearing continued on February 8, 2018. The Tenant called into the hearing, as did L.S., R.S. and T.S. As I was satisfied T.S. was agent for the Landlord the Tenant and T.S. were given a full opportunity to be heard, to present their affirmed testimony, 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 *Residential Tenancy Branch Rules of Procedure*. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

#### Preliminary Matter—Claims to be Considered

*Residential Tenancy Branch Rule of Procedure 2.3* provides that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

While the request for other repairs and monetary compensation are related, it is my determination that the priority claim before me is the Tenant's request for emergency repairs. **I therefore dismiss with leave to reapply** the Tenant's claim for other non-emergency repairs as well as his claim for monetary compensation.

#### Issue to be Decided

1. Should the Landlord be ordered to make emergency repairs to the rental unit?

#### Background and Evidence

By email dated December 4, 2017 the Tenant set out a list of nine items which he identified as emergency repairs. Those repairs are noted in bold in the following enumerated paragraphs. I have also included the Tenant's testimony and submissions respecting those requests. The Landlord's agent's response is noted in italics.

1. **Excessive mold and mildew growth in the storage space:** The Tenant stated that that the source of the mold is due to a previous leaking toilet which was not properly cleaned up such that there are feces and black water in the storage space. He confirmed that he has not obtained the services of a mold expert to determine whether the mold is dangerous, however, he is concerned as the source of the moisture is sewer.

***Landlord's Response:*** *T.S. stated that R.S. investigated the mold issues and determined they were not dangerous. He confirmed that R.S. is not a certified mold specialist and did not take any mold samples or otherwise test the samples for the presence of harmful mold.*

2. **Major leaks from primary fridge.** The Tenant stated that the primary refrigerator leaks. He further stated that the Landlord's representative came and looked at the fridge and determined that it was an internal problem, not related to the plumbing. The Tenant stated that he believes the fridge is at least 15 years old and that it has likely reached its useful lifespan.

**Landlord's Response:** *T.S. stated that the refrigerator was replaced recently with a second hand refrigerator. He was not able to provide details as to the age of the replacement refrigerator.*

3. **Major dishwasher leak.** The Tenant stated that he received an email from T.S. the day before the hearing indicating the Landlord intended to replace the dishwasher.

**Landlord's Response:** *T.S. stated the Landlord was agreeable to replacing the dishwasher.*

4. **Broken glass and broken doors on the side of the house.** The Tenant stated that in October of 2017, the Landlord replaced a door which had a window and when they were moving it the window dropped out of the door and broke. The Tenant stated that the Landlord picked up the broken doors but has not picked up the broken glass.

**Landlord's Response:** *T.S. stated that the glass and door were picked up by third parties.*

5. **Rotten smell coming from under the kitchen cupboards from the leaking fridge and dishwasher.** The Tenant stated that they have tried to mitigate as much as possible by cleaning the area and spraying Lysol, but the Landlord has not taken care of this.

**Landlord's Response:** *T.S. did not respond to the Tenant's concerns regarding the smell from the kitchen.*

6. **Exhaust fans not moving air in the house.** The Tenant stated that he has cleaned the fans but this did not solve the problem. The Tenant stated that R.S. investigated the problem in September 2017 and found that the fan was blowing air out, not in (a piece of tissue paper was held up to the fan and it did not get

sucked in, rather it blew out). The Tenant further stated that despite R.S. discovering that the fan was malfunctioning, the Landlord has not sent in anyone to repair the exhaust system.

7. **Clothes dryer vent piping too long and clogged.** The Tenant stated that the dryer vent is approximately 50 feet with several bends. He confirmed it has been a problem since they moved in and has never been cleared in the 18 months they have lived there. The Tenant submitted a photo of the dryer vent which showed the vent as being clogged. He stated that R.S. looked at the vent and said it was "probably clogged" but they never did anything about it. The Tenant stated that it takes hours and hours to dry clothes which has increased their electrical bill.

**Landlord's Response:** *T.S. stated that the dryer hose was likely 15 feet long. He confirmed that to his knowledge it had not been cleaned or serviced during the tenancy.*

8. **Clogged and slowing moving sewage pipes.** The Tenant stated that the kitchen and bathroom drains are very slow moving. The Tenant further stated that the Landlord told them Roto Rooter would be coming in to clear the drains but that never happened. The Tenant further stated that they have spent hundreds of dollars on drain cleaner and tried plunging the pipes on a weekly basis yet this does not resolve the issue.

**Landlord's Response:** *T.S. did not respond to the Tenant's concerns regarding the clogged and slow moving sewer pipes.*

9. **Fireplace inspection and certification needed for heating system.** The Tenant stated that when they moved in the Landlord stated that they had the fireplace inspected and would give it to him, but they never provided it so the Tenant could not order propane. The Tenant testified that he was informed by three separate companies that they would not fill the propane tank until an inspection and certification are provided. The Tenant further stated that he spoke to R.S. about this who told him to purchase propane independently and simply connect it and start using it.

**Landlord's Response:** *T.S. stated that he spoke to "a friend who is in construction" who told him that an inspection and certification were not required*

The Tenant confirmed that he pays \$2,600.00 per month in rent.

### Analysis

After considering the testimony of the parties and the documentary evidence filed, and on a balance of probabilities, I find the following.

The full text of the *Residential Tenancy Act, Regulation*, and Residential Tenancy Policy Guidelines, can be accessed via the website: [www.gov.bc.ca/landlordtenant](http://www.gov.bc.ca/landlordtenant).

Section 32 of the *Act* mandates the Tenant's and Landlord's obligations in respect of repairs to the rental unit and provides as follows:

#### **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.

The *Residential Tenancy Act Regulation – Schedule: Repairs* provides further instruction to the Landlord as follows:

- 8** (1) Landlord's obligations:
- (a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a tenant.

The landlord must comply with health, safety and housing standards required by law.

(b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

A Landlord is responsible to make repairs when a request for repairs is to ensure reasonable aesthetics, reasonable functioning or lawful compliance with health, safety and housing standards. I find, based on the evidence before me that the Landlord has failed to honour these responsibilities.

I find, based on the Tenant's testimony and documentary evidence filed that the Tenant's evidence that he has brought his concerns to the Landlord's attention on numerous occasions. I also accept that the Landlord has ignored, or failed to respond appropriately to those concerns.

I therefore Order as follows:

1. **Within 14 days of the date of the date of the hearing, namely February 22, 2018**, the Landlord shall retain the services of a qualified, independent mold expert to investigate and recommend remedial steps to address the mold issues in the storage space below the bedroom and bathrooms as well as the kitchen and attic. The Landlord shall also instruct the mold expert to provide recommendations to both parties as to use of the de-humidistat and exhaust fans. The Landlord shall ensure that the mold expert's recommendations are contained in a written report.
2. The Landlord shall provide a copy of the report from the mold expert to the Tenant **within two days of receipt of same**.
3. Should the mold expert make recommendations for remediation of the moisture and mold, the Landlord shall complete those recommended repairs and remediation **within two weeks of receipt of the report**.
4. Should the Landlord fail to retain the services of the mold expert as required in paragraph 1, or fail to rectify any issues in accordance with the mold expert's written recommendations as required by paragraph 3, the Tenant

may reduce his rent by \$500.00 per month until such time as the Landlord complies.

5. **Within two weeks of the date of the hearing, namely February 28, 2018,** the Landlord shall hire an independent qualified appliance repair person to investigate the refrigerator and to provide recommendations as to any required repairs, or replacement as well as an estimate as to the age of the refrigerator.
6. Should the appliance repair person make recommendations for the repair or replacement of the refrigerator, the Landlord shall complete those repairs or replace the refrigerator as the case may be, **within two weeks of receipt of the recommendations.**
7. Should the Landlord fail to retain the services of the appliance repair person as required in paragraph 5, or perform the repairs or replacement as recommended, the Tenant may reduce his rent by \$200.00 per month until such time as the Landlord complies.
8. **Within two weeks of the date of the hearing, namely February 22, 2018,** the Landlord shall replace the dishwasher.
9. Should the Landlord fail to replace the dishwasher by February 22, 2018, the Tenant may reduce his rent by \$200.00 per month until such time as the dishwasher is replaced.
10. **Within two weeks of the day of the hearing, namely February 22, 2018,** the Landlord, or his agents shall attend the rental unit and ensure there is no broken glass on the side of the house.
11. Should the Landlord not comply with paragraph 10, the Tenant may reduce his rent by \$50.00 per month until the Landlord complies.
12. **Within two weeks of the date of this hearing, namely February 22, 2018,** the Landlord shall hire the services of an independent ventilation system expert to investigate and recommend any repairs or services of the exhaust fans and ventilation system and dryer exhaust system.

13. Should the ventilation system expert make recommendations for repairs or servicing of the exhaust fans, ventilation system and dryer exhaust system, the Landlord shall make such repairs or attend to such service requirements **within two weeks of receipt of those recommendations.**
14. Should the Landlord fail to retain the services of a ventilation system expert as required in paragraph 12, or rectify any issues as recommended, the Tenant may reduce his rent by \$300.00 per month until such time as the Landlord complies.
15. **Within two weeks of the date of this hearing, namely February 22, 2018,** the Landlord shall retain the services of an independent drain cleaning company to service the drains of the rental unit.
16. Should the Landlord fail to retain the services of an independent drain cleaning company as required in paragraph 15, the Tenant may reduce his rent by \$100.00 per month until such time as the Landlord complies.
17. **Within two weeks of the date of this hearing, namely February 22, 2018,** the Landlord shall retain the services of an independent gas fireplace inspector to inspect and provide, as the case may be, certification for the use of the fireplace, or recommendations as to steps required to obtain such certification.
18. Should the independent gas fireplace inspector recommend remedial steps with respect to the gas fireplace, the Landlord shall take such steps **within two weeks of receipt of such recommendations.**
19. Should the Landlord fail to retain the services of an independent gas fireplace inspector as required in paragraph 17, or make repairs as recommended by the independent gas fireplace inspector, the Tenant may reduce his rent by \$100.00 per month until such time as the Landlord complies.

For the purposes of the above, R.S., is not considered independent or an expert and the Landlord is specifically directed to retain the services of other persons.

As I did not wish there to be any delay in the Landlord attending to the above, I informed the parties of the Landlord's requirements and the strict deadlines. Each party confirmed their understanding of the above. The details of my Orders (save and except



for the rent reductions in the event of non-compliance) were read to the parties who both confirmed their understanding of the requirements and associated timelines.

Should the parties disagree as to whether the Landlord has complied with any of the Orders set out in this my Decision, they shall be at liberty to apply for further direction or Orders from the Branch.

The Tenant is at liberty to reapply for further rent reductions, or monetary compensation, should the Landlord fail to comply with the above Orders.

### Conclusion

The Tenant's request for an Order that the Landlord make emergency repairs is granted. Should the Landlord fail to comply with the orders as set out in this my Decision, the Tenant is entitled to reduce his rent according to the terms set out in my Decision.

The Tenant's request for an Order that the Landlord make non-emergency repairs, as detailed in his email dated December 4, 2017, is dismissed with leave to reapply.

The Tenant's request for monetary compensation in the amount of \$10,000.00 is dismissed with leave to reapply.

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: February 16, 2018

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Residential Tenancy Branch