



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes: ERP RP OLC

Introduction

Only the tenant attended the hearing and gave sworn testimony. The tenant /applicant said he was not prepared and had not served the Application for Dispute Resolution on the landlord so the landlord had no notice of the hearing today. He would like to have another opportunity to start again to follow the legal procedures. The tenant applies pursuant to the *Residential Tenancy Act* (the Act) for orders as follows:

- a) That the landlord do emergency repairs pursuant to section 33; and
- b) That the landlord repair and maintain the property pursuant to section 32; and
- c) That the landlord provide facilities required by law pursuant to section 27;

Issue(s) to be Decided:

Has the tenant proved on the balance of probabilities that the landlord has not maintained the property contrary to sections 32 and 33 of the Act and are they entitled to orders that the landlord do necessary repairs? Are they entitled to compensation for repairs not done?

Background and Evidence

The tenant said he is living in a substandard building where many tenants are suffering. He had not given the landlord written notice of the repairs required or successfully served his Application for today's hearing. He said he has some difficulty in organizing his thoughts and paper work.

I advised him that his application today could be dismissed with leave to reapply. He said this solution would help him. I advised him that advocates are available to assist tenants in difficult situations through various organizations. He said he knew of some and thinks he will request some help.

Analysis:

The tenant is complaining of serious lack of maintenance. Section 32 of the Act provides as follows:

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

- (a) Complies with the health and 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.

Paragraph 32(1) (b) above is intended to take into account the fact that older units will not and are not expected to be of the same standard as a newly constructed unit but the unit must still meet the standard of being suitable for occupation and comply with health, safety and housing standards required by law. Prolonged lack of maintenance might seriously interfere with the peaceful enjoyment of a tenant contrary to section 28 of the Act and compensation might be claimed under section 7 and 67 of the Act if the landlord is violating the Act. As discussed with the tenant in the hearing, it is very important to file evidence to support your claims.

An application/notice of hearing must be served on the other party pursuant to section 89 of the Act which provides it must be served either personally or by registered mail. I find the tenant did not serve the landlord pursuant to section 89.

Conclusion:

As the tenant did not successfully serve the landlord with his Application, I dismiss this Application and give him 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 14, 2018

Residential Tenancy Branch