



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding PROMPTON REAL ESTATE SERVICES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT OLC ERP RP PSF RR FFT

### Introduction

This hearing was convened as a result of the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act"). The tenant applied for a monetary order of \$35,000.00 for money owed or compensation under the Act, regulation or tenancy agreement, for an order directing the landlord to make emergency repairs for health and safety reasons, for an order directing the landlord to comply with the Act, regulation or tenancy agreement, to make regular repairs to the unit, site or property, for a rent reduction and to recover the cost of the filing fee.

The tenant and an agent for the landlord ("agent") appeared at the teleconference hearing and gave affirmed testimony. During the hearing both parties were given the opportunity to provide their evidence orally and respond to the testimony of the other party.

Neither party raised any concerns regarding the service of documentary evidence.

### Preliminary and Procedural Matters

At the outset of the hearing, the tenant SF confirmed that in error, a tenant from a different rental unit, AB, was included in her application. By consent of the parties, AB was removed from the application of SF before me as the unrelated tenant AB would be entitled to make their own application regarding AB's rental unit; which was different from the rental unit of the applicant tenant SF before me. Therefore, I have removed AB as an applicant pursuant to section 64(3) of the Act.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure ("rules") authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which

is the application for emergency repairs for health or safety reasons. It is also the reason why the tenant received an expedited hearing. I find that not all the claims on the tenant's application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request for an order directing the landlord to make emergency repairs for health or safety reasons and to recover the cost of the filing fee at this proceeding. The balance of the tenant's application is **dismissed, with leave to re-apply**.

In addition to the above, the parties confirmed their email addresses at the outset of the hearing. The parties also confirmed their understanding that the decision would be emailed to both parties.

#### Issues to be Decided

- Should the landlord be ordered to make emergency repairs for health or safety reasons under the *Act*?
- Is the tenant entitled to the recovery of the cost of the filing fee under the *Act*?

#### Background and Evidence

The parties agree that a month to month tenancy began on June 1, 2009 and that the current landlord began to manage the building in February of 2016. The parties agree that the tenant continues to occupy the rental unit.

The tenant filed her application for emergency repairs on March 13, 2018. The tenant testified that she first sent an email to the leasing manager KL ("KL") on January 15, 2018 regarding flooding in the building basement and a concern about mould. KL responded to the tenant the same day at 11:59 p.m. to confirm that someone was on site that day to address the concerns and that someone was coming the next day to fix a leak in the southeast corner of the basement. KL also wrote that while "musty" no mould was found.

Emails between the tenant, KL and the agent regarding the following dates were also presented and reviewed during the hearing:

- January 23, 2018
- January 28, 2018
- January 29, 2018
- February 1, 2018
- February 2, 2018 (multiple)

- February 7, 2018
- March 2, 2018
- April 2, 2018

The agent provided detailed responses to each of the emails between the parties and the actions taken by the landlord. Near the end of the hearing, the tenant confirmed that there has been no leaking observed in the basement and is that the tenant is “happy the matter is resolved” and that the tenant has been living with this issue since before the current landlord took over management of the building. The tenant also stated that “this was resolved very quickly for something that has gone on for a very long time.”

### Analysis

Based on the documentary evidence, the oral testimony, and on the balance of probabilities, I find the following.

Firstly, I find there is no evidence before me that emergency repairs currently exist in the rental building. Secondly, having thoroughly reviewed the emails presented during the hearing, I find the landlord has complied with section 32 of the *Act* which states:

#### **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.

[My emphasis added]

I find the tenant has failed to meet the burden of proof to require an order against the landlord as I find there is no evidence before me that emergency repairs are required in the building as of the date of the hearing, April 26, 2018.

Therefore, I **dismiss** the tenant's application due to insufficient evidence without leave to reapply.

As the tenant was not successful in her application, I **do not** grant the recovery of the filing fee.

Conclusion

I dismiss the tenant's application in full without leave to reapply. The portion severed as discussed above remains dismissed with leave to reapply.

I do not grant the tenant the recovery of the filing fee.

This decision is final and binding on the parties, unless otherwise provided under the Act, 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: May 7, 2018

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Residential Tenancy Branch