



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      DRI, FFT, MNDCT, OLC, RR, RP

### Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”) seeking:

- To dispute a rent increase; and obtain
- An order for the Landlord to comply with the *Act*, regulation, or tenancy agreement;
- A Monetary Order for money owed or compensation for damage or loss under the *Act*, regulation, or tenancy agreement;
- An order for the Landlord to complete repairs; and
- A rent reduction for repairs, services, or facilities agreed upon but not provided.

The hearing was originally convened by telephone conference call on March 13, 2018, at 11:00 AM and was attended by the Tenant, the Tenant’s Advocate (the “Advocate”), and the Landlord, all of whom provided affirmed testimony. The hearing was subsequently adjourned to allow the Landlord time to properly assess and repair, as necessary, a plumbing fixture in the rental unit. As a result of the adjournment, I made a series of orders in the hearing, which were reiterated in the interim decision dated March 22, 2018, and the reconvened hearing was set for June 7, 2018, at 11:00 AM. A copy of the interim decision and the new Notice of Hearing were sent to each party by the Residential Tenancy Branch (the “Branch”).

The hearing was reconvened by telephone conference call on June 7, 2018, at 11:00 AM. and was attended by the Tenant, the Advocate, an advocate in training, and the Landlord. The Tenant, the Advocate, and the Landlord all provided affirmed testimony and were given the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The advocate in training did not provide any evidence or testimony.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”); however, I refer only to the relevant facts and

issues in this decision. For the sake of brevity, I will not repeat here the evidence summarized or the findings of fact made in the interim decision dated March 22, 2018. As a result, the interim decision should be read in conjunction with this decision.

### Preliminary Matters

At the start of the hearing the Advocate identified that they had an advocate in training present with them and requested permission to have them attend the hearing. I asked both parties if they had any objections; neither party raised any objections or concerns. As a result, I permitted the advocate in training to attend the hearing in a non-participatory capacity.

### Issue(s) to be Decided

Is the Tenant entitled to an order for the Landlord to complete repairs to the rental unit?

Is the Tenant entitled to a rent reduction for repairs, services, or facilities agreed upon but not provided?

### Background and Evidence

Both parties agreed that the Landlord had a plumber attended on April 3, 2018, but that no assessment of the leak or work was completed. The parties agreed that a plumber subsequently attended the rental unit on April 6, 2018, and replaced the sink faucet in the kitchen, and that as a result, the sink is no longer leaking.

Despite the above, the Agent stated that the Landlord failed to comply with several of the orders I made in the March 13, 2018, hearing and requested that the Landlord be cautioned that any future non-compliance with the *Act*, the regulation, the tenancy agreement or orders of the director could result in an Application from the Tenant for compensation for any loss suffered as a result of the non-compliance. Specifically the Agent stated that the Landlord submitted additional evidence for my consideration which was not specifically ordered to be submitted and failed to:

- Have a plumber attend the Tenant's rental unit within one week of the date of the hearing on March 13, 2018;
- Give proper written notice of the date and time that the plumber was to attend the rental unit in accordance with section 29(b) of the *Act*; and

- Have any plumbing issues or leaks in the kitchen repaired as soon as reasonably possible and in any event, no later than one week after the date that the plumber inspects the kitchen.

The Landlord acknowledged that the plumber did not attend the rental unit within one week of March 13, 2018, but testified that due to the remote location of the small community, plumbers are difficult to obtain on short notice. Further to this the Landlord stated that she had a plumber attend at the earliest date that worked for both the plumber and the Tenant, who wished to be home at the time the plumber attended.

The Landlord acknowledged that a plumber attended the Tenant's rental unit on April 3, 2018, but failed to inspect the plumbing or complete any work due to a miscommunication. However, the Landlord denied that the repairs were not completed within one week of being identified as a plumber attended the rental unit on April 6, 2018, and both identified and repaired the leak.

The Landlord also denied that she breached section 29(b) of the *Act* by failing to give proper notice of the plumber's entry to the rental unit as she stated that the Tenant agreed to the dates and times of both entries either by phone or text. The Tenant acknowledged that she agreed to these entries by text and phone but the advocate stated that these interactions were very difficult and that it would have been easier and more appropriate for the Landlord to simply issue a 24 hour written notice.

The Landlord also denied serving any additional evidence in relation to this hearing that was not specifically ordered to be served in the interim decision. However, the Landlord did acknowledge that she served the Tenant with evidence in response to another Application filed by the Tenant which is set to be heard on a different date.

Although the Tenant sought a rent reduction for repairs, services, or facilities agreed upon but not provided, the Monetary Order Worksheet (the "Worksheet") submitted by the Tenant and the Advocate does not disclose a monetary amount sought for this rent reduction and no testimony was provided by the Tenant or the Advocate regarding this rent reduction in either hearing.

### Analysis

As both parties agreed that the leak in the kitchen sink was resolved when the Landlord had a plumber replace the sink faucet on April 6, 2018, I find that the Tenant no longer requires an order for the landlord to complete repairs to the rental unit. As a result, I

dismiss the Tenant's claim for an order for the Landlord to complete this repair to the rental unit without leave to reapply.

Although the Tenant sought a rent reduction for repairs, services, or facilities agreed upon but not provided, the Monetary Order Worksheet (the "Worksheet") submitted by the Tenant and the Advocate does not disclose a monetary amount sought for this rent reduction. Further to this, no testimony was provided by the Tenant or the Advocate at either the initial hearing on March 13, 2018, or the reconvened hearing on June 7, 2018, regarding the amount of the rent reduction sought or the period over which the rent reduction would apply. Section 59(2)(b) of the *Act* states that an Application must include full particulars of the dispute. Further to this, rule 6.6 of the Rules of Procedure states that the onus to prove the case is on the person making the claim.

Based on the above, I find that the Tenant has failed to disclose full particulars of their claim for a rent reduction for repairs, services, or facilities agreed upon but not provided or to satisfy me, on a balance of probabilities, that they are entitled to a rent reduction for this purpose. As a result, I dismiss the Tenant's claim for a rent reduction for repairs, services, or facilities agreed upon but not provided without leave to reapply.

Although both of the Tenant's claims were ultimately dismissed, it was acknowledged by both parties at the reconvened hearing that as a result of the plumbing inspection ordered in my interim decision, a leak in the kitchen sink was found and subsequently repaired. As a result, I am satisfied that the Tenant's Application for an order for the Landlord to make repairs to the rental unit had merit and I therefore find that she is entitled to the recovery of the \$100.00 filing fee pursuant to section 72 of the *Act*. The Tenant may deduct \$100.00 from the next month's rent in recovery of the filing fee, or seek recovery of this filing fee from the Landlord by serving and seeking enforcement of the attached Monetary Order.

Although the Advocate sought a finding that the Landlord breached four of the orders in my interim decision, based on the documentary evidence and testimony before me, I am only satisfied that the Landlord failed to have the plumber attend the rental within one week of the date of the hearing on March 13, 2018. In any event, I accept the Landlord's testimony that she attempted to comply with the order but was unable to do so due to the Tenant's schedule and the availability of plumbers in the community.

Despite the foregoing, and in an effort to prevent future disputes, I caution the Landlord that failure to comply with the *Act*, the regulation, the tenancy agreement or any orders

of the director in the future could give rise to administrative penalties or a claim by the Tenant for damage or loss suffered as a result of the non-compliance.

Conclusion

Pursuant to sections 67 of the *Act*, I grant the Tenant a Monetary Order in the amount of **\$100.00**. The Tenant is provided with this Order in the above terms and the Landlord must be served with this Order as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

The Tenant is also entitled to deduct \$100.00 from the next month's rent in lieu of enforcing this Monetary Order, should she wish to do so.

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: June 8, 2018

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Residential Tenancy Branch