



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes          ERP OLC RP MNDC

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution, made on March 24, 2018 (the "Application"). The Tenants applied for the following relief pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord make emergency repairs for health or safety reasons;
- an order that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement;
- an order that the Landlord make repairs to the unit, site, or property; and
- a monetary order for money owed or compensation for damage or loss.

J.P. attended the hearing at the appointed date and time. A.P. and L.P. are her children. The Landlord attended the hearing on his own behalf. The Landlord's girlfriend, P.L., attended the hearing to support the Landlord but did not participate. The Tenant and the Landlord provided affirmed testimony.

J.P. testified that the Application package, documentation, and an Amendment to an Application for Dispute Resolution (the "Amendment") was served on the Landlord by leaving a copy at his door. Although not an approved method of service of an Application package or the Amendment, the Landlord acknowledged receipt.

The Landlord submitted documentary evidence in response to the Application. The Landlord testified that it was served on the Tenants in person. The Tenant J.P. acknowledged receipt.

No further issues were raised with respect to service or receipt of the above documents. I find the above documents were sufficiently served for the purposes of the *Act*, pursuant to section 71 of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. The parties were advised to refer me to any documentary evidence upon which they wished to rely. I have reviewed all oral and written

evidence before me that met the requirements of the Rules of Procedure, and to which I was referred. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Preliminary and Procedural Matters

Rule 2.3 of the Rules of Procedure permits an arbitrator to exercise discretion to dismiss unrelated claims with or without leave to reapply. The most important issue to address during this hearing was whether or not emergency or other repairs are required. Accordingly, I find it appropriate to exercise my discretion to dismiss the Tenants' request for monetary relief. The Tenants are granted leave to reapply for the monetary relief sought at a later date.

### Issues to be Decided

1. Are the Tenants entitled to an order that the Landlord make emergency repairs for health or safety reasons?
2. Are the Tenants entitled to an order that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement?
3. Are the Tenants entitled to an order that the Landlord make repairs to the unit, site, or property?

### Background and Evidence

A copy of the tenancy agreement between the parties was submitted into evidence. It confirmed the tenancy began on February 1, 2018. Rent in the amount of \$1,300.00 per month is due on the first day of each month. The Tenants paid a security deposit of \$650.00, which the Landlord holds.

The Tenants sought an order that the Landlord make emergency repairs for health or safety reasons, that the Landlord make repairs, and that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement. The evidence of the parties did not differ significantly. J.P. confirmed during the hearing that these requests were in relation to two issues. First, she testified that she noticed a "major infestation" of ants in the rental unit. Photographic images were submitted in support. The ants were a concern for J.P., in part because her daughter would not sleep in her room.

J.P. acknowledged the Landlord took steps to address the ant issue. The Landlord attended to investigate. He taped up walls and sprayed affected areas with pesticide. When this was not effective, he obtained the services of a pest control company. The Landlord submitted a copy of invoices from the pest management company confirming attendance on April 1 and 25, 2018. Also submitted was a copy of an email from the pest management company, dated May 23, 2018, describing the ant problem as "average or below average". However, J.P. stated that she feels like the Landlord only did so after she filed the Application.

Second, J.P. referred to a broken “hood” over the oven. A photographic image was submitted in support. She stated that she asked the Landlord to fix it, and that he agreed to do so, but that it has not yet been repaired.

In reply, the Landlord testified that he found someone to repair the hood, and gave the Tenant sufficient notice of the entry, but that the Tenant would not permit the person to enter the rental unit. A letter from the contractor was submitted in support, which stated: “any future visits to this location must include a guarantee that entry to the suite will not be an issue.” The Tenant acknowledged she did not want anyone in her rental unit without being present.

### Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

With respect to the Tenants’ request for an order requiring the Landlord to perform emergency repairs for health or safety reasons, section 33 of the *Act* confirms that “emergency repairs” means repairs that are:

- (a) *urgent,*
- (b) *necessary for the health or safety of anyone or for the preservation or use of residential property, and*
- (c) *made for the purpose of repairing*
  - (i) *major leaks in pipes or the roof,*
  - (ii) *damaged or blocked water or sewer pipes or plumbing fixtures,*
  - (iii) *the primary heating system, damaged or defective locks that give access to a rental unit,*
  - (iv) *the electrical systems, or*
  - (v) *in prescribed circumstances, a rental unit or residential property.*

[Reproduced as written]

I find the repairs sought by the Tenant are not emergency repairs as defined under the *Act*. This aspect of the Application is dismissed.

With respect to the Tenants’ request for an order that the Landlord make repairs to the rental unit, I find that the Landlord’s response to the Tenants’ concerns about ants was appropriate in the circumstances. After unsuccessfully attempting to address the problem himself, he obtained the services of a pest management company. At this time, it appears that no further follow-up is required. This aspect of the Application is dismissed.

With respect to the Application that the hood over the oven be repaired, I find that the Landlord agreed to do so. I order the Landlord to make the repair, giving the Tenant adequate notice of entry in accordance with section 29 of the *Act*. Although it is not necessary that the Tenant be present while the repairs are taking place, I encourage the parties to coordinate efforts so that J.P. can be present.

In addition, the Tenants sought an order that the Landlord comply with the *Act*, regulations, and/or the tenancy agreement. As noted by the Tenant, this aspect was in relation to repairs, which have been addressed above. This aspect of the Application is dismissed.

### Conclusion

I order the Landlord to repair the hood over the oven and to give the Tenant adequate notice of entry in accordance with section 29 of the *Act*.

The Tenants are granted leave to reapply for the monetary relief sought at a later date. This is not an extension of any applicable statutory deadline.

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 7, 2018

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Residential Tenancy Branch