



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes          RP, PSF, RR, FFT

### Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order for regular repairs, pursuant to section 32;
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65;
- an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- recovery of the filing fee from the landlord, pursuant to section 72.

The landlord did not attend this hearing, although I left the teleconference hearing connection open for 13 minutes in order to enable the landlord to call into this teleconference hearing scheduled for 11:00 a.m. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference system that the landlord did not call into this teleconference.

The tenant testified that she personally served the landlord the notice of dispute resolution package on June 7, 2018. I find that the landlord was served with this package on June 7, 2018, in accordance with section 89 of the *Act*.

At the beginning of this hearing the tenant testified that she has already moved out of the rental property and so withdrew the following portions of her application:

- an Order for regular repairs, pursuant to section 32; and
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65.

Issue(s) to be Decided

1. Is the tenant entitled to an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65 of the *Act*?
2. Is the tenant entitled to recover the filing fee from the landlord, pursuant to section 72 of the *Act*?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony the tenant, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

The tenant testified that this six-month fixed term tenancy began on February 1, 2018 and officially ends on July 31, 2018. Monthly rent in the amount of \$1,325.00 was payable on the first day of each month. A security deposit of \$663.00 was paid by the tenant to the landlord. A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The tenant testified that her tenancy agreement specifically states that an oven and window coverings are included in the rent. In support of this assertion, the tenant submitted the tenancy agreement which stated that an oven and window covering are included in the rent.

The tenant testified that when she moved in she found out that the oven did not work. When she informed the landlord that the oven did not work and that she wanted it repaired, he told her that he was planning on demolishing the building next year and so would not make any repairs. He then told her she could use the toaster oven on the balcony. The tenant testified that the toaster oven was filthy and outside and that she did not want to use it. The tenant entered into evidence photographs and videos of the broken stove and the outside toaster oven.

The tenant testified that the window coverings were falling apart, taped together and missing many panels. The tenant testified that this affected her right to privacy and made it difficult to sleep when the sun came up. The tenant entered into evidence photographs of the broken window coverings.

The tenant testified that on numerous occasions from the start of the tenancy until April 2018 the tenant texted the landlord asking that he repair the window coverings and the stove but that the landlord refused to fix these items because he was planning on demolishing the building next year and didn't want to put any money into it.

The tenant testified that she sent the landlord a warning letter dated April 23, 2018, demanding that he fix the window coverings and stove within 30 days or she would file for dispute resolution with the Residential Tenancy Branch. This letter was entered into evidence.

The tenant testified that on April 30, 2018 she received an email from the landlord which stated that he would not make the requested repairs to the rental property because he planned on demolishing the unit within the year. This email was entered into evidence.

The tenant testified that on May 30, 2018 she received an email from the landlord in which he offered to reduce her rent by \$75.00 per month for the last two months of the tenancy in compensation for her loss of services. The tenant testified that she did not accept this offer and that on May 31, 2018 provided a counter offer of a rent reduction of \$100.00 per month for the duration of her tenancy. The tenant testified that the landlord did not accept her offer. These emails were entered into evidence.

The tenant testified that she is seeking a rent reduction in the amount of \$100.00 for the entire duration of her tenancy, that being from February 1, 2018 to July 1, 2018 for a total of \$600.00

### Analysis

I find that the tenancy agreement between the tenant and the landlord clearly states that a stove and window coverings are included in the rent. Based on the evidence submitted by the tenant and the tenant's undisputed testimony, I find that the stove and window coverings were broken. I find that the landlord breached section 3(b) of the tenancy agreement by failing to provide an operational stove and working window coverings. I also find that offering a dirty toaster oven located on the balcony of the rental property does not relieve the landlord of his duty to provide a working oven as stated in the tenancy agreement.

Section 32 of the *Act* states that a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law.

In the email from the landlord dated April 30, 2018 the landlord stated that he would not repair the stove or other damages because the rental unit was going to be demolished later that year. I find that the future demolition of the building does not negate the landlord's duty to repair and maintain the rental property, pursuant to section 32 of the *Act*. I find that the landlord breached section 32 of the *Act* by neglecting his duty to repair and maintain the stove and window coverings.

Section 65(1) states in part that if the director finds that a landlord has not complied with the *Act* or a tenancy agreement, the director may make the following orders:

- that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;
- that any money paid by a tenant to a landlord must be repaid to the tenant.

I find that the value of the tenancy agreement was negatively affected by the broken stove and window coverings. I find that due to the failure of the landlord to comply with the tenancy agreement and the *Act*, the tenant is entitled to a rent reduction in the amount of \$100.00 per month for every month of this tenancy, that being six months from February to July of 2018. Pursuant to section 65 of the *Act*, I Order the landlord to repay the tenant \$600.00 for the decreased value of her tenancy.

As the tenant was successful in this application, I find that she is entitled to recover the \$100.00 filing fee for this application from the landlord.

#### Conclusion

I issue a monetary Order in the tenant's favour in the amount of \$700.00 against the landlord. The tenant is provided with a monetary 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.

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: July 26, 2018

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Residential Tenancy Branch