



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding 1057151 BC LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ERP, RR, FFT

### Introduction

This teleconference hearing was scheduled in response to an application by the Tenants under the *Residential Tenancy Act* (the “Act”) for an order for the Landlord to complete emergency repairs, a reduction in rent due to repairs agreed upon but not completed, and for the recovery of the filing fee paid for this application.

One Tenant and two agents for the Landlord (the “Landlord”) were present for the duration of the teleconference hearing. The Landlord confirmed receipt of the Notice of Dispute Resolution Proceeding package and a copy of the Tenant’s evidence. The Tenant confirmed receipt of the Landlord’s evidence package. Neither party brought up any concerns regarding service and therefore I find that both parties were duly served in accordance with Sections 88 and 89 of the *Act*.

The parties were affirmed to be truthful in their testimony and were provided with the opportunity to present evidence, make submissions and question the other party.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, only the evidence relevant to the issues and findings in this matter are described in this decision.

### Issues to be Decided

Should the Landlord be ordered to complete emergency repairs?

Is the Tenant entitled to a reduction in rent due to repairs agreed upon but not completed?

Should the Tenant be awarded the recovery of the filing fee paid for the Application for Dispute Resolution?

### Background and Evidence

While I have considered the relevant documentary evidence and testimony of both parties, not all details of the submissions are reproduced here.

The parties were in agreement as to the details of the tenancy. The tenancy began on September 1, 2017. Monthly rent in the amount of \$1,820.00 is due on the first day of each month. A security deposit of \$875.00 was paid at the outset of the tenancy. The tenancy agreement and a notice of rent increase form submitted into evidence confirm the details as stated by the parties.

The Tenant provided testimony that on December 11, 2018 he contacted the Landlord as there was water leaking into the rental unit from the ceiling in the bathroom. The Tenant stated that he was told by the Landlord that it would be fixed promptly. He submitted a number of photos and videos showing the areas where the leaking was occurring.

The Tenant stated that on December 17, 2018 there was another leak that occurred in the bedroom and on December 18, 2018 water began leaking through a light in the hallway. The Tenant stated that he was concerned for his safety with water leaking through the lighting in the hallway and bedroom. He stated that he was also concerned with an open hole in the bathroom ceiling that left drywall, mould and other substances exposed in the ceiling and leaking onto him. The Tenant submitted into evidence a number of text messages in which he contacted the Landlord to notify him of the continuing water leaks and sent photos of the areas of concern.

On December 27, 2018 the Tenant stated that he sent a letter to the Landlord outlining his concerns with how the Landlord responded to the Tenant's requests for repairs. The letter was submitted into evidence and states his concern regarding communication as the Tenant was told the repairs would be completed much sooner than they were. In the letter the Tenant stated his request to be compensated for the inconvenience of the leaking issues and ongoing repairs.

The Tenant further testified that the repairs are not completed in any of the three areas where leaks occurred; the bathroom, bedroom and hallway. He stated his belief that the leaking issues from the roof have been repaired as no leaking has occurred since January 4, 2018. The Tenant stated that he would like the final repairs to be completed

as soon as possible and for upfront communication from the Landlord regarding the timeline for completion and times when professionals will need access to the rental unit.

The Landlord testified that they were contacted on December 11, 2018 regarding water leaking through the ceiling of the bathroom of the rental unit. The Landlord stated that a plumber was called as it was thought that the issue may be from the piping from the unit above. After the plumber attended the residential property on December 12, 2018, it was determined that it was not a pipe leak, but instead likely originated from the roof. The Landlord submitted that it was on December 12, 2018 that the ceiling in the rental unit was opened up to determine the source of the water leaks.

The Landlord contacted a roofing company and they attended the residential property on December 13, 2018. The Landlord stated that due to the extreme rain at the time, they were not able to have a roofer attend the property any sooner. The Landlord stated that while the roofing company was investigating and resolving areas of concern, the Tenant experienced two additional leaks in other areas of the rental unit.

The Landlord stated that they did their best to communicate with the Tenant regarding the repairs. They stated that the roofing company attended the residential property numerous times to locate and repair the leaking issues. They also stated that they were not able to repair and patch the holes inside the rental unit until they knew that the leaks were repaired on the roof, otherwise they would need to keep repairing and patching each time they realized the leaking issue had not been resolved.

The Landlord also stated that some of the holes in the rental unit remained wet for a while and therefore they had to ensure they were fully dry before patching with drywall and completing the repairs. The Landlord also stated that water had leaked to the unit below the Tenant's and therefore this rental unit also required repairs.

The Landlord stated that a third leak was reported on January 3, 2018 which was repaired and resolved on January 4, 2018. They stated that no leaks have been reported since then and they believe that the issues on the roof have been resolved. The Landlord submitted receipts into evidence that show work done on the roof, as well as photos of the roof.

The Tenant also applied for compensation in the amount of \$1,820.00, which is half a month's rent for the months of December 2018 and January 2018. He testified that there was an issue occurring with his heat in early December 2018. On December 5, 2018 the heat was not working at all, so the Tenant contacted the Landlord and a

plumber attended the rental unit on December 8, 2018. The Tenant stated that the heat issue was resolved, but the heater was making a loud noise. The heating issues were fully resolved on December 10, 2018.

The Tenant also stated that he expected the initial water leaking issues to be resolved shortly after he informed the Landlord on December 11, 2018. However, he stated that since the repairs have taken so long he has had to deal with water in various areas of the rental unit, a hole in the bedroom ceiling, a hole in the bathroom over the bathtub, water leaking through light fixtures and other concerns. The Tenant submitted photos of the various areas of the rental unit where damage occurred from the water leaks.

The Tenant stated that the hole above the bathtub left wet drywall exposed along with mould. The Tenant stated that this would drip on him as he was showering and that he asked the Landlord to cover the hole with plastic. The Tenant stated his concern regarding airborne diseases from the hole in the bathroom ceiling, as well as his concern in the bedroom which include water leaking from the light fixture and the furniture pushed against the wall until the repairs are fully completed. The Tenant submitted photos and a video of the leak in the bedroom ceiling.

The Landlord testified that the first they heard of any issues with the Tenant's heat was on December 5, 2018. They stated that they responded to the heating issue right away, as they do with all repair issues. The Landlord agreed that the water leaking issues were concerning but stated that they responded immediately and are still in the process of finalizing the repairs. The Landlord stated that after receiving the Tenant's December 27, 2018 letter they offered compensation in the amount of \$250.00 to the Tenant. The Landlord stated that although this was accepted at first, the Tenant later declined to accept this amount.

### Analysis

Based on the testimony and evidence of both parties, and on a balance of probabilities, I find as follows:

Regarding the Tenant's request for emergency repairs, I refer to the definition of emergency repairs as provided in Section 33(1) of the *Act*:

- 33 (1) In this section, "**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,
  - (iv) damaged or defective locks that give access to a rental unit,
  - (v) the electrical systems, or
  - (vi) in prescribed circumstances, a rental unit or residential property.

The parties were in agreement that there were issues with the roof of the rental building that caused leaking into the Tenant's rental unit. They also agreed that while the leaking issues seem to be resolved, there is remaining work to be finished in the unit such as wall patching and painting.

However, while the initial leaking issues fit the definition of an emergency repair, I find that the Landlord took reasonable steps to repair the issues. The parties agreed that there have been no water leaks in the rental unit since January 4, 2019. Although the repairs that remain are the result of the initial emergency repair, I do not find that the remainder of repairs required in the rental unit fit the definition of an emergency repair. I also accept the testimony of the Landlord that the final repairs are in the process of being completed. I do not find that any emergency repairs are required in the rental unit and therefore find that no orders for emergency repairs are necessary. The Tenants' application for emergency repairs is dismissed, without leave to reapply.

Should the remaining non-emergency repairs not be completed, the Tenant is at liberty to file a new Application for Dispute Resolution.

As for the Tenant's claim for a reduction in rent, the Tenant has claimed a total of \$1,820.00; half a month's rent each for December 2018 and January 2019. While I do find that the Landlord took reasonable steps to address the leaking issues in the rental unit, I also understand that the issues were caused through no fault of the Tenant's and likely caused some disturbance and stress while the issues were investigated, and repairs completed. I also find that due to the nature of the repairs, they were not able to be fully resolved quickly. As such, I find that the Tenant lost some quiet enjoyment of the rental unit, which he is entitled to as stated in Section 28 of the *Act*.

While some repairs were still being conducted in January 2018, I find that these were not as significant as the leaking issues which were resolved as of January 4, 2019. The Tenant also testified as to issues with the heat in the rental unit, but I find that the Landlord responded to the heating issues as soon as he became aware and the issues were resolved in a reasonable timeframe.

The issues in the rental unit resulting from the roof leaks began on December 11, 2018 and were resolved by January 4, 2019. During this time, Tenant experienced water leaking issues in the bathroom, bedroom and hallway and I find the photos and videos submitted to be proof as to the extent of the leaks. I accept the Landlord's testimony that before repairing damage in the Tenant's unit, they first had to find and fix the issues on the roof. However, I find that during this time, the Tenant was left with damage from the water leaks and concerns for potential further leaking issues.

As such, I find that the Tenants lost some use and enjoyment of the rental unit for approximately 3 weeks, from December 11, 2018 to January 4, 2019 during the time the water leaks were occurring. I find that the repairs remaining are in progress and it seems that there is little concern for further leaking.

The Tenant claimed \$910.00 for each month, which is equivalent to approximately \$225.00 per week. I find this to be a reasonable amount and therefore, I award the Tenant three weeks of compensation for the loss of enjoyment of the rental unit for a total of \$675.00.

The Tenant also applied for the recovery of registered mail costs, printing and other costs associated with the dispute resolution process. However, I decline to award any compensation as I find that these are costs that may be incurred by both parties through a dispute resolution process and not costs that are recoverable from the other party.

As the Tenants were partially successful with their Application for Dispute Resolution, pursuant to Section 72 of the *Act* I award the recovery of half of the filing fee in the amount of \$50.00. Therefore, the Tenants are awarded a total of \$725.00 which they may deduct from their next monthly rent payment.

### Conclusion

The Tenants' application for emergency repairs is dismissed, without leave to reapply.

Pursuant to Sections 67 and 72 of the *Act*, I award the Tenants **\$725.00** as compensation, as well as the recovery of half of the filing fee paid for the Application for Dispute Resolution. The Tenants may deduct this amount one time from their next monthly rent payment.

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: January 30, 2019

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Residential Tenancy Branch