



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      CNR ERP

### Introduction

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

- cancellation of the landlord's 10 Day Notice to End Tenancy for Unpaid Rent (the "Ten-Day Notice") pursuant to section 46; and
- an order to the landlord to make emergency repairs to the rental unit pursuant to sections 33 and 62.

The tenants attended the hearing. The tenants had full opportunity to provide affirmed testimony, present evidence, cross examine the other party, and make submissions.

The landlord did not attend the hearing. I kept the teleconference line open from the scheduled hearing time at 9:30 a.m. until 9:44 a.m. to allow the landlord the opportunity to call. The teleconference system indicated only the tenants and I had called into the hearing. I confirmed the correct participant code was provided to the landlord.

The tenants testified that the landlord was served with the notice of dispute resolution package and the tenants' evidence by placing the documents on the landlord's door. This is not a valid method of service of a notice of dispute resolution package pursuant to section 89 of the *Act*. However, the tenants testified that they have discussed this application with the landlord on multiple occasions and the tenants testified that the landlord had received the notice of dispute resolution package and she was aware of the hearing. During the hearing, the tenant, J.M. went to the landlord's unit to see if the landlord was going to join the hearing. Tenant, J.M. testified that the landlord's husband stated that the landlord was at work and she probably forgot about the hearing. Based on the tenants' testimony, I find that the landlord was sufficiently served with the notice of dispute resolution package for the purposes of the *Act* pursuant to section 71(2)(b).

Issue(s) to be Decided

Are the tenant's entitled to an order for cancellation of the landlord's Ten-Day Notice?

If not, is the landlord entitled to an order for possession pursuant to section 55?

Are the tenants entitled to an order requiring the landlord to make emergency repairs to the rental unit pursuant to sections 33 and 62?

Background and Evidence

The tenants provided a copy of the Ten-Day Notice posted on the door. The Ten-Day Notice states that it was issued and personally delivered to the tenants on March 8, 2019. The Ten-Day Notice stated unpaid rent of \$1,110.66 as of March 1, 2019 with a stated move out date of March 17, 2019. The first page of the notice was an official Residential Tenancy Branch (RTB) form #RTB-30. However, the second page of the Ten-Day Notice was on RTB form #RTB-33.

The tenants requested emergency repairs to the rental unit. The tenants testified that there were multiple problems with the rental unit including the following: the carpet was extremely dirty and smelling; the shower and bathtub both flow at the same time; the stove has an electrical deficiency that can cause electric shocks; two electrical outlets in the living room are not properly mounted with exposed live electrical wires; and, the rental unit needs to be painted.

Analysis

A landlord may end a tenancy for unpaid rent pursuant to section 46 of the *Act* by issuing a notice that complies with section 52 of the *Act*. Section 52(e) of the *Act* requires notice to end tenancy be in the approved form. If find that the Ten-Day Notice issued by the landlord is not the approved form as the second page of the notice does not use approved #RTB-30 form.

As such, I find that the Ten-Day Notice does not comply with section 52 of the *Act* and I grant the tenant's application to cancel the Ten-Day Notice pursuant to section 46 of the *Act*. The Ten-Day Notice is hereby cancelled and it is of no force or effect. The tenancy shall continue until it ends pursuant to the *Act*.

The tenant also requested emergency repairs to the rental unit. Section 33 of the Act authorizes emergency repairs as follows:

- 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.

I find that the tenants complaints regarding the carpet; the bathtub and shower; and the painting are not urgent and necessary for the health or safety of the tenant's within the meaning of section 33. Accordingly, I dismiss the tenants' request for emergency repair of these deficiencies. However, the tenants are granted leave to reapply for a non-emergency repair request relating to these complaints.

I do find that the tenants' request for repairs regarding the electrical issues does constitute an emergency repair pursuant to section 33 of the *Act*. I find these electrical issues are urgent; are necessary for the health and safety of the tenants; and, are made for the purposes of repairing the electrical systems. Accordingly, I grant tenant's application for emergency repairs of the electrical systems pursuant to sections 33 and 62(3) of the *Act*. I hereby order the landlord to retain a licensed electrical contractor to repair the electrical services to the stove and the electrical outlets in the living room.

## Conclusion

I grant the tenants' application to cancel the Ten-Day Notice. The Ten-Day Notice is hereby cancelled and it is of no force or effect. The tenancy shall continue until it ends pursuant to the *Act*.

I grant tenants' application for emergency repairs of the electrical systems pursuant to sections 33 and 62(3) of the *Act*. I hereby order the landlord to retain a licensed electrical contractor to repair the electrical services to the stove and the electrical outlets in the living room. I dismiss the rest of the tenants' request for emergency repairs with leave to reapply for non-emergency repairs.

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: May 03, 2019

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Residential Tenancy Branch