



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding CANADIAN TENANT INSPECTION SERVICES LTD.  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ERP

### Introduction

This expedited hearing was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (the "Act"). The tenant applied for an order requiring the landlord to make emergency repairs to the rental unit.

The tenant and the landlord's agents, hereafter "landlord", attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

Thereafter the participants were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all relevant evidence before me that met the requirements of the Dispute Resolution Rules of Procedure (the "Rules"); however, I refer to only the relevant evidence regarding the facts and issues in this decision.

### Preliminary Issues

At the beginning of the hearing, I instructed the tenant to ask her witness to leave the room where the tenant was located during the hearing and be far enough away so that her witness could not hear any part of the hearing, including the tenant's testimony.

When the hearing was concluding, in response to my inquiry, the tenant confirmed that her witness could verify the tenant's oral evidence, as she was with her every step of the way. The tenant was informed that as the witness' testimony would be cumulative, I did not require her testimony.

After this information was given to the tenant, she immediately began speaking to her witness, which led me to conclude that the witness had been present for all or part of the hearing. While the tenant protested that the witness only came out when the “good-byes” were being said, I did not accept this assertion as the witness logically would not have been able to hear the “good-byes”.

I informed the tenant, again, that I would not hear from her witness.

As an additional preliminary matter, while initially the tenant was informed I had not received some of her evidence, during the hearing I located her evidence, which was a 16 page submission. I note the tenant had not properly labeled that submission, as it only listed a singular document.

I assured the tenant that despite her evidence being filed only 1 day prior to the hearing, I will consider that 16 page submission and all other relevant evidence prior to the decision on her application being made, and I have done so.

I note that these parties are scheduled for another dispute resolution hearing on August 23, 2019, before another arbitrator, on the landlord’s application seeking an order of possession for the rental unit based upon the landlord’s 10 Day Notice to End Tenancy for Unpaid Rent.

#### Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to make emergency repairs to the rental unit?

#### Background and Evidence

I heard evidence that the parties have been in a prior dispute resolution proceeding, in which all, most, or some of the tenants of the residential apartment building had filed a joiner application to dispute the 4 Month Notice Notices to end all tenancies in the building due to the landlord’s planned renovations.

In that prior dispute resolution matter, this tenant and many other tenants of the building entered into a settled agreement with the landlord which, in relevant part, the landlord agreed to withdraw their 4 Month Notices and the tenants/applicants “will work, in good faith, with the Landlord to accommodate the renovations that the Landlord has planned”.

That previous dispute resolution decision is referred to by parent file number in the style of cause page in this Decision. I note that there are a total of 25 separate tenant files.

In the present case, in support of her application, the tenant submitted that the issue of water entering her rental unit has been ongoing and has been asking for repairs for a year. The tenant submitted that there is black mould in her apartment to such an extent she has lost the use of some of her rental unit.

In response to my inquiry, the tenant submitted that she does not know where the water is entering her apartment, she just knows water is coming in.

The tenant's additional relevant evidence was a video/audio clip demonstrating water dripping from the ceiling and a notice of entry by the landlord.

*Landlord's response-*

The landlord submitted that the owners of the building purchased it in the spring of 2018, with an eye to either demolishing the residential property or making major renovations. The owner decided to make major renovations. The landlord submitted this is such a major undertaking, the project would last 8 to 10 months, barring complications.

The landlord submitted that based upon the settled agreement with the tenants, they issued all tenants letters in October 2018, in good faith, and asked them to temporarily relocate in December 2018, so the renovations could be made. The landlord submitted that the problem was that tenants refused to leave their rental units.

The landlord submitted that in this case, he knows where the water problem in the rental unit lies, and that is in the rental unit directly above the tenant. The water only leaks when the upper tenant takes a shower. The landlord submitted that the bathrooms in this rental unit and the upper rental unit need to be completely demolished to remedy the issue; however, the tenants refuse to move.

The landlord submitted that the manager attempted to access the rental unit the day prior to the hearing in an effort to keep working on the repairs; however, the tenant refused access.

*Tenant's response-*

The tenant submitted that she refused entry to the manager as he did not show up for a previously scheduled visit. The tenant pointed out that she has allowed entries on several dates.

Analysis

As defined by section 33 of the Act, emergency repairs are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and 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.*

In this case, the tenant said that this issue has been ongoing for a year. I find this evidence demonstrates that the water leak issue is not urgent.

Additionally, the tenant confirmed that she has denied access to a manager who was attending to further assess the water situation. I find this demonstrates that the tenant further considered this matter non-urgent.

I also considered that both parties are aware of renovations that are required to be made and I find the landlord submitted sufficient evidence to demonstrate that they are addressing the matter in compliance with the settled agreement reached in a prior dispute resolution hearing.

As I have found that the tenant has not proven the repairs mentioned in her application were urgent, I dismiss her application seeking an order requiring the landlord to make emergency repairs to the rental unit, without leave to reapply.

Conclusion

The tenant's application is dismissed, without leave to reapply.

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: August 3, 2019

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Residential Tenancy Branch