



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP RR MNDC FF

### Introduction

This hearing was convened pursuant to an Application for Dispute Resolution made by the Tenant on June 17, 2019 (the “Application”). The Tenant applied for the following relief pursuant to the *Residential Tenancy Act* (the “Act”):

- an order that the Landlord make repairs to the unit, site, or property;
- an order reducing rent for repairs, services or facilities agreed upon but not provided;
- a monetary order for compensation for monetary loss or other money owed; and
- an order granting recovery of the filing fee.

The Tenant and the Landlord attended the hearing at the appointed date and time, and provided affirmed testimony.

The Tenant testified the Landlord was served with the Application package and documentary evidence by registered mail. The Landlord acknowledged receipt. Further, the Landlord testified that the documentary evidence to be relied upon was served on the Tenant by regular mail. The Tenant acknowledged receipt. The parties were in attendance and were prepared to proceed. No issues were raised with respect to service or receipt of the above documents. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given a full opportunity to present evidence orally and in written and documentary form, and to make submissions to me. At the end of the hearing, parties were asked if there was further evidence they wished to provide. 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

Residential Tenancy Branch Rule of Procedure 2.3 permits an arbitrator to exercise discretion to dismiss unrelated claims with or without leave to reapply. The most important issue to address is whether or not repairs are required. Accordingly, I find it appropriate to exercise my discretion to dismiss all but the request for repairs to the unit, site, or property, with leave to reapply.

During the hearing, the possibility of settlement was discussed. The parties were advised there is no obligation to resolve the dispute in this manner. Pursuant to section 63 of the *Act*, the parties reached agreement with respect to several aspects of the Tenant's claim for repairs, as follows:

**Dishwasher:** The Landlord agrees to help the Tenant make arrangements to install the new dishwasher purchased by the Landlord, the cost of which was included in the purchase price paid by the Landlord.

**Ventilation:** The Landlord agrees to install the ventilation fan for the downstairs bathroom, which has already been purchased by the Landlord.

**Patio:** The Landlord agrees to repair any loose boards on the patio.

**Fence:** The Landlord agrees to repair the fence.

**Keys:** The Landlord agrees to provide the Tenant with a key to the back door.

**Cement plates:** The Landlord agrees to remove 2 cement plates left at the rental property by the Landlord's neighbours. The Landlord advised they are to be removed by the Landlord's gardener on August 6, 2019.

In the circumstances, I find it appropriate to order that the above repairs be completed by August 16, 2019.

### Issues to be Decided

1. Is the Tenant entitled to an order that the Landlord make repairs to the unit, site, or property?
2. Is the Tenant entitled to an order granting recovery of the filing fee?

### Background and Evidence

The parties agreed the tenancy began on July 15, 2016, and continues on a month-to-month basis. Rent is due in the amount of \$3,944.00 per month. The Tenant paid a security deposit of \$1,972.00, which the Landlord holds.

The parties were unable to reach agreement with respect to several aspects of the Tenant's claim. First, the Tenant claimed the fridge has not worked properly since the beginning of the tenancy, 3 years ago. She testified that the fridge has poor temperature control and freezes her vegetables. Despite repeated requests, the Landlord has failed to adequately repair or replace the fridge in the rental unit.

In reply, the Landlord testified that an electrician recently examined the fridge and determined that nothing was wrong with it. The Landlord also noted that fridges often have cold zones and that this is normal.

Second, the Tenant claimed that a handrail installed by the Landlord presented more of a hazard than before it was installed. However, during the hearing, the Tenant withdrew this aspect of the claim, noting she didn't want the Landlord to do anything but thought he should know.

Third, the Tenant requested repairs of "mudding" in the ceiling and wall of the rec room. The Tenant submitted that the walls and ceiling were repaired after an incident of flooding but that the work was not done properly. She suggested it should be returned to the original condition. Although not specifically referred to by the Tenant during the hearing, photographs depicting the walls and ceiling were submitted in support.

In reply, the Landlord testified that he did what was necessary and is not prepared to make further repairs to the drywall. In written submissions, the Landlord indicated he obtained "professionals to replace the whole roof and repaired with the internal damage."

Fourth, the Tenant requested repair of flooring in the rec room, which is bulging. She testified she has placed a heavy couch over the affected area.

In reply, the Landlord testified that the Tenant was compensated and is not prepared to make the repairs. The Landlord referred to a type-written message to the Tenant, dated August 26, 2016, which stated the Tenant would be compensated 1 month's rent due to the condition of the basement floor.

Fifth, the Tenant requested replacement of two doors. The Tenant and the Landlord confirmed the doors were not present at the time she entered into the tenancy agreement but were requested after the tenancy began. The Landlord indicated he is not prepared to provide doors that were not part of the original agreement.

Sixth, the Tenant requested the repair of an outside wall. She advised that the Landlord has repaired the wall but that it "looks horrible". The Tenant wishes to have a more aesthetically pleasing wall.

In reply, the Landlord confirmed the house is roughly 60 years old. Nevertheless, the wall was repaired in response to a request made by the Tenant 1-2 months ago.

Finally, the Tenant requested items related to the garden. In written submissions, the Tenant stated: "Upon move-in the garden had not been taken care of, no garden tools are in the garden shed and no proper pool equipment in the pool shed." She testified that she asked for equipment but that it has not been provided.

In reply, the Landlord referred to an excerpt from a tenancy agreement, signed by the Tenant on June 29, 2016, which indicates the Tenant is responsible for yard maintenance. However, the portion of the agreement which suggests "mowing tools" would be provided was deleted and initialled by the Landlord. The Tenant denied she agreed to this and testified the deletion was not in her version of the tenancy agreement.

Other items listed in the Tenant's written submissions, including a claim for a loss of sun protection due to the removal of a tree on the property, were not addressed during the hearing as they appear to be related to the severed monetary portion of the claim.

### Analysis

In light of the oral and documentary evidence submitted by the parties, and on a balance of probabilities, I find:

Section 32 of the *Act* confirms 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, and, having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

With respect to the Tenant's claim for fridge repairs, I find there is insufficient evidence before me to grant the relief sought. While I accept the Tenant's testimony, I find that an electrician retained by the Landlord has determined the fridge is functioning normally, although it might have cold zones. There is insufficient evidence before me to conclude that the fridge does not meet health, safety and housing standards required by law, or makes the rental unit unsuitable for occupation. This aspect of the Tenant's claim is dismissed.

With respect to the Tenant's claim for handrail repairs, the Tenant withdrew this aspect of the claim during the hearing.

With respect to the Tenant's claim for repairs of "mudding" in the rec room, I find there is insufficient evidence to grant the relief sought. Specifically, there is insufficient evidence of the condition of the rec room before the repairs. It appears the Tenant's concerns are primarily aesthetic. Although I accept that the Tenant does not like the appearance of the walls and ceiling, I find there is insufficient evidence before me to conclude that the work done to the walls does not meet health, safety and housing standards required by law, or makes the rental unit unsuitable for occupation. This aspect of the Tenant's claim is dismissed.

With respect to the Tenant's claim for repair of flooring in the rec room, I find there is insufficient evidence to grant the relief sought. I accept the evidence of the Landlord, which confirmed the parties agreed the Landlord would not repair the basement floor and that the Tenant would be compensated 1 month's rent. Further, I find there is insufficient evidence that the bulging areas of the floor, which are covered by the Tenant's furniture, do not meet health, safety and housing standards required by law, or make the rental unit unsuitable for occupation. This aspect of the Tenant's claim is dismissed.

With respect to the Tenant's claim to replace 2 doors, I find the parties agreed the doors were not present at the time they entered into the tenancy agreement but were requested after the tenancy began. Landlords are not required to provide items that were not part of the original tenancy agreement. This aspect of the Tenant's claim is dismissed.

With respect to the Tenant's claim for repairs to an outside wall, I find the Landlord completed the repairs. Although the repairs do not meet the Tenant's aesthetic standards, I find there is insufficient evidence to conclude that the wall does not meet health, safety and housing standards required by law, or make the rental unit unsuitable for occupation. This aspect of the Tenant's claim is dismissed.

With respect to the Tenant's claim for the Landlord to provide gardening tools, I find there is insufficient evidence before me to conclude the Landlord agreed to provide gardening tools. Rather, the excerpt from the tenancy agreement submitted by the Landlord specifically excluded "mowing tools" and never included other gardening tools. This aspect of the Tenant's claim is dismissed.

Subject to the agreement reached between the parties during the hearing, described under *Preliminary and Procedural Matters* above, I find the Tenant's requests for repairs are dismissed. There is insufficient evidence to conclude that the issues described by the Tenant fail to meet health, safety and housing standards required by law, or make the rental unit unsuitable for occupation.

As the hearing was required to reach a settlement agreement between the parties with respect to the items described under *Preliminary and Procedural Matters*, above, I find the Tenant is entitled to recover the \$100.00 filing fee paid to make the Application, which I order may be deducted from a future rent payment at the Tenant's discretion.

### Conclusion

I order the Landlord to complete the repairs listed under *Preliminary and Procedural Matters*, above, by August 16, 2019. The remainder of the Tenant's requests for repairs are dismissed, without leave to reapply.

The Tenant is granted leave to reapply for the remainder of the relief sought (RR, MNDC) at a later date.

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 8, 2019

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Residential Tenancy Branch