



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding MENKIS CONSTRUCTION  
and [tenant name suppressed to protect privacy]

## **DECISION**

**Dispute Codes**      OLC RP FFT

### **Introduction**

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

- an order requiring the landlord to comply with the *Act*, regulation or tenancy agreement pursuant to section 62;
- an order to the landlord to make repairs to the rental unit pursuant to section 33; and
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

ND ("landlord") appeared as agent for the landlord in this hearing. Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to call witnesses, and to make submissions.

The landlord confirmed receipt of the tenant's application for dispute resolution ('application'). In accordance with section 89 of the *Act*, I find that the landlord was duly served with the tenant's application. As both parties confirmed receipt of each other's evidentiary materials, I find that these documents were duly served in accordance with section 88 of the *Act*.

### **Issues(s) to be Decided**

Is the tenant entitled to an order for the landlord to comply with the *Act*?

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

Is the tenant entitled to recover the filing fee?

### **Background and Evidence**

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on October 1, 2016, with monthly rent set at \$1750.00, payable on the first of the month. The tenant pays an additional \$100.00 per month for parking. The landlord collected, and still holds, a security deposit in the amount of \$875.00.

The tenant is applying for an order for the landlord to perform repairs as required. The tenant testified that the landlord does not respond in a timely manner when repairs are requested, and has even attempted to avoid repairs by issuing the tenant a 10 Day Notice to End Tenancy. The Notice was disputed by the tenant, and was cancelled by an Arbitrator after a hearing was held on June 3, 2019.

The tenant provided a timeline of requests, where the landlord had attended to perform some repairs, but concluded that the ongoing issues were due to the tenant's actions, and therefore did not fall under the landlord's responsibility to repair. The tenant testified that on October 10, 2018 the landlord had informed him that the landlord would not perform any more repairs. The tenant listed the outstanding issues that needed to be addressed including repairing the crown molding and door in the bathroom, the toilet that isn't working properly, replacing the bathroom fan filter, and issues with the garburator.

The landlord disputes that they have never dismissed the tenant's requests for repairs. The landlord confirmed in the hearing that the tenant may email the landlord, and the landlord would fix any outstanding issues.

The landlord provided invoices to demonstrate that they had responded to the tenant's previous requests, and a finding by the plumber that no leak could be found, and that the moisture was due to water overflowing from the tub.

### **Analysis**

Section 32 of the *Act* addresses the landlord and tenant's obligations to repair and maintain a rental unit.

### **Landlord and tenant obligations to repair and maintain**

**32** (1) A landlord must provide and maintain residential property in a state of decoration and repair that

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

I have considered the testimony and evidence of both parties, and I note the tenant's concerns about the timeliness of the landlord in responding to his requests for repairs. I am satisfied the landlord has attended to some of the repairs, however it is clear some remain to be completed. The landlord agreed in the hearing that the tenant may email the landlord regarding any outstanding issues that needed to be addressed. I therefore grant the tenant's request for an Order that the landlord make such repairs.

In furtherance of the above I Order as follows:

1. Upon receipt of an email from the tenant regarding the outstanding repairs that need to be performed the landlord shall:

(a) within 3 days of receipt of the email, dispatch a qualified professional to inspect the problem.

(b) Within 14 days of the inspection, either perform the required repairs, or provide the tenant with the finding from the professional as to why the repairs cannot be performed.

I allow the tenant to recover the filing fee for this application.

### **Conclusion**

The tenant's application or an Order for repairs is granted. The landlord is to respond to the tenant's requests for repairs in a timely manner, as required by section 32 (1) of the *Act*.

I issue a \$100.00 Monetary Order in favour of the tenant for recovery of the filing fee. I allow the tenant to implement the above monetary award by reducing future monthly rent payments until the amount is recovered in full. In the event that this is not a feasible way to implement this award, the tenant is provided with a Monetary Order in the amount of \$100.00, and the landlord(s) must be served with **this Order** as soon as possible.

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: October 8, 2019

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Residential Tenancy Branch