



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on October 18, 2019, (the "Application"). The Tenant also made an amendment to her Application on October 25, 2019 and applied to obtain an order for regular repairs, pursuant to the *Residential Tenancy Act* (the "*Act*").

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

The Tenant testified that she served her Application, amendment and documentary evidence package to the Landlords by registered mail on October 25, 2019. The Landlords stated that they received a package from the Tenant, however, did not receive the Tenant's Application.

After further discussion during the hearing as to exactly what the Landlords received from the Tenant, the Landlords stated that they received the Tenant's Notice of Dispute Resolution, the Tenant's amendment, as well as the Tenant's documentary evidence. The Landlords stated that they were unsure if the documents were real and had called the Residential Tenancy Branch to confirm the validity of the documents. Pursuant to section 88 and 89 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order for the Landlord to make regular repairs to the rental unit, pursuant to Section 32 and 62 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on November 30, 2018. Currently, the Tenant pays rent in the amount of \$850.00 to the Landlords which is due on the first day of each month. The Tenant paid a security deposit in the amount of \$425.00, which the Landlords continue to hold.

The Tenant stated that she currently rents a mobile home from the Landlords which has inadequate heating. The parties agreed that the furnace in the rental unit has been broken for some time, therefore, the Landlords have made use of 3 oil space heaters and one electric baseboard heater in the rental unit. The Tenant stated that she was agreeable to trying this arrangement until she saw her first heating hydro bill. The Tenant stated she has had several discussions with the Landlords regarding her request to having the proper heating system repaired as the space heaters are too costly and are only meant to be an alternate source of heat. The Tenant provided a copy of her hydro bills in support.

In response, the Landlords stated that heat and hydro are not included in the rental agreement. The Landlords stated that the previous occupant made use of the space heaters throughout their nine year tenancy. Furthermore, the Landlords stated that they have made use of the heaters themselves which they found to be more than adequate in the mobile home. The Landlords stated that heating a space in the winter months is costly regardless of the source of heating being used.

The Landlords also stated that they had offered to have the furnace repaired if the Tenant agreed to pay for the propane tank rental and propane required to operate the furnace. The Landlords stated that the Tenant disagreed, therefore they did not follow through on the repairs of the furnace. The Tenant stated that she feels as though it is the Landlords' responsibility to fill the propane tanks for the furnace.

The Tenant is also seeking a repair order in relation to some black mold that has appeared in the rental unit. The Tenant stated that there had been a previous leak in the rental unit and that there was some discolouration appearing in the corner of the living room ceiling. The Tenant stated that she notified that Landlords on several occasions in

January and February 2019 regarding her concerns and that the Landlords have not address the issue. The Tenant provided a copy of the email exchange between the parties in support.

The Landlords stated that they had repaired the issue which caused the leak prior to the start of the tenancy. The Landlords acknowledged that there was some slight discolouration of the ceiling in the living room, however, denied any presence of mold. The Landlords stated that they inspected the discolouration of the ceiling in April 2019 and noticed a few black spots. The Landlords stated that they do not feel as though the spots are mold, and offered the Tenant a dehumidifier, however, the Tenant stated that she already had one.

The Landlords requested that the Tenant notify them if the black spots increased in size. The Landlords stated that they were under the impression that the Tenant was going to paint over the black spots and that they did not hear any further complaints from the Tenant. The Tenant stated that the black spots have grown in size and is seeking that the Landlords take action to repair the problem.

### Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

According to Section 32 of the Act;

*(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...*

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

*(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement...*

The Tenant has applied to obtain an order that the Landlord repair the propane heating system in the rental unit, as the current space heater system is too expensive and inadequate. In this case, I accept that the parties agreed at the start of the tenancy that the furnace was broken and that the main source of heat for the rental unit was derived from the use of three oil heaters and one electric baseboard heater. The parties agreed that heat and hydro is not included in the rent.

In this case I find that the Tenant agreed to enter into the tenancy knowing that the heaters were used as a primary heating source. I find that while the Tenant provided a copy of her hydro bills, the Tenant provided insufficient evidence to demonstrate that the currently heating system is inadequate. I accept that the Landlords agreed to fixing the furnace in the rental unit, just as long as the Tenant agrees to renting and filling the propane tank needed to operate the furnace. The Tenant refused to do so. I find that it is reasonable to expect that the Tenant rent the propane tank and propane needed to operate the heating system, should the Landlord repair the furnace. As such, I dismiss this portion of the Tenant's claim.

The Tenant has also applied for an order that the Landlords repair some black mold spots in the living room ceiling of the rental unit which had been subject to a prior leak. I accept that the Tenant reported her concerns to the Landlords regarding the discolouration on the ceiling and that the Landlords attended the rental unit in April 2019 to inspect, however, the Landlords did not feel as though the spots were mold. The parties agreed that no further action has been taken to resolve the Tenants concerns regarding mold.

In this case, I find that the Tenant has established that the Landlord has not maintained the premises in accordance with section 32 of the *Act*, nor has the Landlord undertaken adequate repairs in a timely fashion.

In light of the above, and in accordance with Section 65 of the *Act*, I order the Landlord to retain the services of a licensed restoration company to inspect, assess and where work is required to repair the rental unit to a state whereby the Tenant has access to a safe and healthy internal environment free of mould.

I order the Landlord to undertake these inspections and repairs as soon as possible, but no later than December 31, 2019. Should the Landlords not comply with this order, the Tenant is at liberty to reapply for monetary compensation, including a reduction of monthly rent, under the *Act*.

Conclusion

The Landlords have failed to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law.

I order that the Landlord retain the services of a licensed restoration company on or before December 31, 2019 to inspect, assess and where work is required to repair the rental unit to a state whereby the Tenant has access to a safe and healthy internal environment free of mould.

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: December 11, 2019

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Residential Tenancy Branch