



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FIRST SERVICE RESIDENTIAL  
and [tenant name suppressed to protect privacy]

## **DECISION**

### Dispute Codes

FFT RP RR

### Introduction

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

- recovery of the filing fee from the landlords pursuant to section 72 of the *Act*;
- an Order for the landlords to perform repairs to the rental unit pursuant to section 33 of the *Act*; and
- a reduction in rent for repairs, services or facilities agreed upon but not provided pursuant to section 65 of the *Act*.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions, to call witnesses and to cross-examine one another. The corporate landlord was represented by its agents.

As both parties were present service was confirmed. The parties each confirmed receipt of the materials. Based on the testimonies I find that each party was served with the respective materials in accordance with sections 88 and 89 of the *Act*.

### Issue(s) to be Decided

Is the tenant entitled to recover the filing fee from the landlord?

Should the landlord be ordered to make repairs to the rental unit?

Is the tenant entitled to reduce rent for repairs, services or facilities agreed upon but not provided?

### Background and Evidence

This periodic tenancy began in December 2013. The current monthly rent is \$1,701.00 payable on the first of each month. The rental unit is a suite in a multi-unit building.

The tenant submits that they observed moisture behind the bathroom tiles of the rental unit in June 2019. The tenant informed the landlord of the need for repairs and maintenance work at that time. After some discussions between the parties the landlord contracted with a third-party restoration company who performed work in the rental unit in the autumn of 2019. The landlord was informed that the repairs were completed by October 30, 2019. The tenant submits that the work was done in a poor fashion causing dust and detritus throughout the rental unit and that the initial issue was not properly rectified. The tenant has provided some photographic and video evidence in support of their position that further work is required. The tenant testified that, they too, are in the home restoration industry and believe that the work performed on the rental unit falls below the professionally acceptable standard.

The tenant says that there was a period of approximately one week when they were unable to use the shower in their rental unit due to the work being performed. The tenant confirmed that they were able to reside in the rental unit throughout the work being performed and there were some inconvenience as they needed to be present to allow the workers access to the rental unit. The tenant seeks a monetary award in the amount of \$1,701.00, the equivalent of one month's rent for the loss of value of the tenancy.

The landlord submits that all work performed was done to professional standards and there are no outstanding issues requiring further intervention. The landlord submitted into evidence a letter from the third-party restoration company detailing the scope of work performed and the standards by which they were completed.

The landlord submits that there was a period approximately 2 days where the shower of the rental unit could not be used and that they offered the tenant the use of other facilities in the rental building.

### Analysis

Pursuant to Residential Tenancy Rules of Procedure 6.6 the onus to prove their claim on a balance of probabilities rests with the party making the claim. The tenant claims that the bathroom of the rental unit requires repairs and maintenance work.

I find that there is insufficient evidence in support of the tenant's claim for repairs. I find that the evidence submitted by the tenant show minor blemishes and barely perceptible issues. Even accompanied by the tenant's testimony, the supposed deficiencies are difficult to perceive. I further find the tenant's evidence that there is moisture and mold behind the tiles of the bathroom to be conjecture and a conclusion based on little evidence. I find that there is insufficient evidence that the work performed in the rental unit was not done to a professionally acceptable standard.

Perfection cannot be the standard for repairs. In this case, while the tenant may feel that the repairs have not been done to the standards by which they perform their own work, I find insufficient evidence that the work was not completed in a reasonable and professional manner. I find that the tenant has not met their evidentiary onus to demonstrate that the rental unit is in need of repairs and consequently dismiss this portion of the tenant's application.

Section 67 of the *Act* establishes that if damage or loss results from a tenancy, an Arbitrator may determine the amount of that damage or loss and order that party to pay compensation to the other party. In order to claim for damage or loss under the *Act*, the party claiming the damage or loss bears the burden of proof. The claimant must prove the existence of the damage/loss, and that it stemmed directly from a violation of the agreement or a contravention of the *Act* on the part of the other party. Once that has been established, the claimant must then provide evidence that can verify the actual monetary amount of the loss or damage. This section is read in conjunction with section 65 of the *Act* which allows for a monetary award for reduction of past or future rent.

I find that there is insufficient evidence in support of a monetary claim. The tenant was able to reside in the rental unit and make use of the majority of the amenities throughout the duration of the repairs. The tenant was without the use of the shower for approximately 2 to 7 days. The landlord testified that the tenant was offered the use of alternate shower facilities in the building but the tenant declined. The tenant testified that they were able to make use of the bathroom and it was only the shower that was unavailable for a brief time. Based on the totality of the evidence I find that the tenant has not established that there has been a loss in the value of the tenancy that would

give rise to a monetary award. Any inconvenience experienced was temporary, minor and had little impact on the daily routine of the tenant. I find that there is insufficient evidence in support of the tenant's claim for a monetary award and consequently dismiss this portion of the application.

As the tenant was not successful in their application they are not entitled to recover the filing fee from the landlord.

### Conclusion

The tenant's application is dismissed in its entirety 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: January 21, 2020

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Residential Tenancy Branch