



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      OLC, RP, RR, PSF, FFT

### Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on May 7, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord comply with the Act;
- an order for regular repairs;
- an order to provide services or facilities required by tenancy agreement or law;
- an order for a rent reduction; and
- an order granting recovery of the filing fee.

The Tenant, the Tenant's Advocate P.E., as well as the Landlord's Agent S.M. appeared at the appointed time of the hearing. At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

### Preliminary Matters

At the start of the hearing, the Tenant clarified that her Application was made in relation to ordering the Landlord to comply with the previous Arbitrator's repair orders in relation to a decision dated February 24, 2020. The Tenant was also seeking a rent reduction above what was previously ordered in a December 17, 2018 decision as a result of the Landlord not complying with a previous repair order created on September 12, 2018. The Tenant also indicated that she was seeking further repairs to the rental unit which had not previously been ordered to be repaired.

The Residential Tenancy Branch Rules of Procedure permit an Arbitrator the discretion to dismiss unrelated claims with or without leave to reapply. It was determined during the hearing that the most important issues to discuss was if the Landlord has complied with the previous Arbitrators' orders and if the Tenant is entitled to a further rent reduction in relation to the Landlord's non compliance. The Tenant's claims for regular repairs and for the Landlord to provide a service or a facility are therefore dismissed with leave to reapply.

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 Residential Tenancy Branch Rules of Procedure (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 a rent reduction, pursuant to Section 67 of the *Act*?
2. Is the Tenant entitled to recover the filing fee, pursuant to Section 72 of the *Act*?

#### Background and Evidence

The parties agreed to the following; the tenancy began on March 1, 2018. Rent in the amount of \$1,200.00 was due to be paid to the Landlord on the first day of each month, however, as a result of a previous hearing dated December 17, 2018, the Tenant has been permitted to reduce the rent each month that the Landlord does not comply with a repair order made in a previous decision dated September 12, 2018. Currently, the Tenant stated that she is paying the Landlord \$200.00 in rent each month as the Landlord has not yet complied with the repair order. The Tenant was not required to pay a security deposit at the start of the tenancy.

During the hearing the parties testified and agreed that they have had several dispute resolution hearings surrounding repairs to the rental unit and compensation relating to the Landlord's inaction to follow through on the orders created by previous Arbitrators. The Tenant provided a copy of two previous decisions stating that the Landlord has not

complied with the repair orders. As such, the Tenant is seeking a further rent reduction in the amount of \$100.00 each month.

The February 24, 2020 decision ordered the Landlord to complete the following repairs to the rental unit;

- *I order the landlord to have a certified, licensed professional replace the roof at the rental unit when the weather is better, in approximately six weeks of February 24, 2020.*
- *I order the landlord to inspect the flickering electricity at the rental unit by February 24, 2020 and to repair the issue, if recommended by a certified, licensed electrician, by March 3, 2020.*
- *I order the landlord to inspect the windows that do not open at the rental unit by February 24, 2020, and to replace them, if recommended by a certified, licensed professional, by March 3, 2020.*
- *I order the landlord to install a fan above the stove that is vented to a charcoal filter, as per code, at the rental unit by March 3, 2020.*
- *I order the landlord to provide the two invoices for the perimeter drains cleaning to the tenant by February 24, 2020.*
- *I order the landlord to inspect the perimeter drains at the rental unit by March 3, 2020 and to repair any drain blockage at the perimeter drains to prevent water leaks, if recommended by a certified, licensed professional, by March 15, 2020.*
- *I order the landlord to maintain ongoing perimeter drains cleaning to prevent drain blockage and water leaks at the rental unit.*
- *I order the landlord to repair any blockage or leaks of the perimeter drains at the rental unit, within a reasonable period of time, once notice is provided by the tenant.*

During the hearing, the parties agreed that the roof has not yet been replaced. The Tenant stated that the roof is leaking down the walls, which has impacted the electrical system and causing water to collect in the basement. The Landlord's Agent stated that the roof does not leak, and that the Landlord is not able to comply with repairing the roof at this time as his financial situation is suffering as a result of the Tenant not being required to pay full rent.

The parties agreed that the electrical system has been inspected and that repairs have been made, however, the Tenant stated that the lights continue to flicker from time to time as a result of the leaking roof. The Landlord's Agent attributed the flickering lights to the Tenant's faulty extension cords that she is using in the rental unit. The Landlord's Agent stated that he has seen no evidence of water coming into the rental unit and collecting in the basement.

The parties agreed that the windows have been repaired, however, the Tenant stated that the basement window has condensation forming inside. The Landlord's Agent stated that it is the Tenant's responsibility to clean the window that has condensation on it and that it is a functioning window.

The parties agreed that the Landlord has installed a new fan and has provided the Tenant with two invoices for the perimeter drains. The parties did agree that the perimeter drains have not yet been repaired or replaced. The parties agreed that the Tenant is currently only required rent in the amount of \$200.00 from \$1,200.00 as ordered in the December 17, 2018 decision which states;

*In the event that the landlord does not complete all of the listed repairs ordered by the previous arbitrator by December 31, 2018, I order that the monthly rent for this tenancy for January 2019, is reduced by \$300.00. On each successive month where repairs have not been completed, the tenant is authorized to reduce the monthly rent by a further \$50.00 until such time as the repairs are completed. I order that the tenant's rent return to the normal monthly amount required by the tenancy agreement and the Act in the month following the completion of these repairs.*

The rent reduction was applied as it was found that the Landlord did not comply with the repair order created in the decision dated September 12, 2018 which states;

*By no later than September 26, 2018 the Landlord shall:*

- *Hire a qualified electrician to inspect the electrical in the rental unit and provide to the Tenant, within 7 days of receipt of same, a written opinion as to the reason for the power outages.*
- *Hire a qualified electrician to repair the exterior motion sensor, driveway soffit lighting and front porch light.*

- *Provide to the Tenant a copy of the invoice from the drain specialists who serviced the drains in July of 2018 and provide to the Tenant any recommendations received from the drain specialists relating to the rental property.*
- *Should the drain specialists recommend a course of action which has not been undertaken by the Landlord the Tenant is at liberty to make a further application for an Order that the Landlord make such repairs.*
- *Hire a qualified plumber to repair the hole in the bathtub and the toilet.*

The Tenant is seeking the Landlord repair the above-mentioned repairs that have been ordered in previous decisions. The Tenant is seeking further rent reduction in the amount of \$100.00 as well as the return of the filing fee.

### Analysis

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

Section 65(1)(f) of the Act sets out that if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may reduce past or future rent by an amount that is equivalent to a reduction in the value of a tenancy agreement.

I am satisfied that the Landlord has not complied with some of the repair orders that were ordered to be completed in relation to the September 12, 2018 and February 24, 2020 decisions. I accept that the Tenant has received a substantial rent reduction from \$1,200.00 to \$200.00 as a result of the Landlord's non compliance with completing some of the repairs that were previously ordered.

In this case I find that the Tenant has provided insufficient evidence to demonstrate that the Landlord's non compliance has diminished the value of the tenancy beyond the \$200.00 that the tenant is currently required to pay the Landlord each month. I find that the rent reduction that is currently in place relates to similar issues and reduction of value that was addressed in the September 12, 2018 and February 24, 2020 decision. As such, I dismiss the Tenant's Application for a further rent reduction without leave to reapply. As the Tenant was not successful with her Application, I find that she is not entitled to the return of the filing fee.

Conclusion

I dismiss the Tenant's Application for a further rent reduction without leave to reapply, as the Tenant provided insufficient evidence to demonstrate that the Landlord's non compliance with previous repair orders has diminished the value of the tenancy beyond the previously ordered amount of reduced rent.

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: July 8, 2020

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Residential Tenancy Branch