



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ENGINEERING DESIGN ASSOCIATES  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      ERP

### Introduction

On August 17, 2020, the Tenants filed an Application for Dispute Resolution under the *Residential Tenancy Act* ("the *Act*") for an order for the Landlord to make emergency repairs to the rental unit. The matter was set for a conference call.

The Tenants attended the hearing and were each affirmed to be truthful in their testimony. As the Landlord did not attend the hearing, service of the Notice of Dispute Resolution Hearing was considered. Section 59 of the *Act* states that the respondent must be served with a copy of the Application for Dispute Resolution and Notice of Hearing. The Tenant testified the Application for Dispute Resolution and Notice of Hearing had served to the Landlord by registered mail, sent on July 28, 2020. A Canada Post registered mail tracking number was provided as proof of service. I find that the Landlord has been duly served in accordance with the *Act*.

The Tenants were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing.

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 to be Decided

- Are the Tenants entitled to an order for Emergency repairs to the rental unit?

### Background and Evidence

The Tenants testified that the tenancy began on March 15, 2020, as a month to month tenancy. The Tenant also testified that the current rent is \$1,950.00 per month to be paid by the first day of each month. The Tenant confirmed that the Landlord collected a \$975.00 security deposit at the outset of this tenancy and that there is no written tenancy agreement.

The Tenants testified that on July 22, 2020, the Landlord turned off the power to the rental unit. The Tenants testified that they had repeatedly requested the Landlord turn the power back on, both verbally and in writing, but the Landlord refused.

The Tenants further testified that they contacted the electricity company, Fortis BC, about restoring the power to the rental unit, which was refused due to an overdue electrical bill under the Landlords name and that they would not be able to have the power restored in an account in the Tenants' names. The electrical company also refused to provide information citing privacy reasons about the amount of the outstanding bill, thinking that they could pay the bill and get the power back on.

The Tenants also testified that they bought a generator to provide minimal power to the rental unit to run the refrigerator, paying out of pocket for the generator and fuel, so their food would not spoil. The Tenants stated that the loss of power has been extremely stressful to them and their children.

The Tenants advised this Arbitrator that the Landlord is subject to conditions imposed by an Undertaking, issued by local police, stating that the Landlord may not have contact, direct or indirect, with the Tenants, and may not attend the rental property, due to the Landlord attempting to run the Tenants over with their car. The Tenants submitted a copy of the Undertaking into documentary evidence.

### Analysis

Based on the evidence before me, the testimony of the Tenant, and on a balance of probabilities:

I find that the Tenants have provided a credible account of the history of this tenancy during this proceeding.

I accept the Tenants' testimony that the Landlord has turned off the electricity for the rental unit as of July 22, 2020.

As for the Tenants' application of an order for emergency repairs to the rental unit, I find that the rental unit is not in need of emergency repairs, as indicated in the Tenants' application but that essential services or facilities have been willfully terminated or restricted by the Landlord to the rental unit. Section 27 of the *Act* states the following:

**Terminating or restricting services or facilities**

- 27(1)** A landlord must not terminate or restrict a service or facility if
- (a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or
  - (b) providing the service or facility is a *material term of the tenancy agreement*.

I find that electricity is an essential service to this tenancy and that the Landlord has breached section 27 of the *Residential Tenancy Act* by turning off this essential service.

**I order the Landlord to immediately reinstate the terminated essential service, electricity, to the rental unit for this tenancy.**

Additionally, for what I deem to be the Landlord's blatant and willful disregard for the *Residential Tenancy Act*, the personal welfare of the Tenants and their family, I find it appropriate to award the Tenants compensation. I award the Tenants the recovery of their full rent for the period of time in which the essential service has been terminated, 27 days between July 22, 2020, to August 17, 2020, the date of this hearing, at a per diem rate of \$64.11.

Monthly Rent	1,950.00
Yearly Rent	23,400.00
Per Diem	64.11
Days Refunded	27
<b>Awarded to Tenants</b>	<b>1,730.96</b>

Accordingly, I award the Tenants \$1,730.96 in compensation for the Landlord's breach of the *Act*. I grant permission to the Tenants to withhold this amount from their rent for this tenancy in full satisfaction of this award.

Additionally, I order that the Tenants shall receive additional compensation, at the rate of \$64.11 per day, from the date of this hearing until the terminated essential services are restored. I grant the Tenants permission to withhold \$64.11 per day from their rent, in

compensation, for each day the Landlord does not comply as ordered above, for the period of August 18, 2020, onward.

If there is a dispute between these parties as to the date when the terminated essential service was restored, I order that it is the Landlord who must apply for and obtain a decision from this office to resolve that dispute.

### Conclusion

I order the Landlord to immediately reinstate the terminated essential service of electricity for this tenancy.

I grant the Tenant permission to withhold \$1,730.96, in rent, in compensation for the termination of essential services to this tenancy, for the period between July 22, 2020, and the date of this hearing, August 17, 2020.

I grant the Tenants permission to withhold an additional \$64.11 per day from their rent, in compensation, for each day the Landlord does not comply as ordered above, for the period of August 18, 2020, onward.

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 17, 2020

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Residential Tenancy Branch