



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ERP, FFT

### Introduction

On August 7, 2020, the Tenant applied for dispute resolution under the *Residential Tenancy Act* (“the Act”) seeking the following:

- for an order that the Landlord make emergency repairs to the rental unit.

The Director of the Residential Tenancy Branch has established the expedited hearing process in circumstances where there is an imminent danger to the health, safety, or security of a Landlord or Tenant.

The matter was scheduled for a teleconference hearing. The Tenant and the Landlord were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during 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

- Is the Tenant entitled to an order for the Landlord to make emergency repairs to the rental unit or property?

### Background and Evidence

The parties agreed that the tenancy began on January 1, 2020, as a one-year fixed term tenancy. Rent in the amount of \$1,150.00 is due to be paid to the Landlord by the first day of each month. The Tenant paid the Landlord a security deposit of \$575.00.

The Tenant testified that two weeks after she moved into the rental unit, she notified the Landlord that the windows are leaking. She testified that the Landlord attended the rental unit the next day and looked at the windows. She testified that the Landlord said the windows are not leaking.

The Tenant testified that on July 3, 2020 she again contacted the Landlord and notified him that the windows are leaking. She testified that the Landlord informed her he would attend the rental unit; however, he did not.

The Tenant testified that she arranged for a home inspection for July 7, 2020 and also an air quality test. The Tenant testified that the air quality report indicates that the presence of mould is above healthy levels. The Tenant stated that the report indicates the cause of the mould is the leaking windows. The Tenant submitted that the windows were not installed correctly. The Tenant testified that she can feel the cold coming into the unit from the leaking windows. The Tenant provided a copy of the report.

The Tenant testified that the Landlord was not interested in having a copy of the reports.

The Tenant also testified that there is also a problem with a door that leaks when it is raining. She testified that the base of the door is flush with the ground and the wood base is rotten. She testified that she notified the Landlord about the issue with the door' however the Landlord did nothing.

The Tenant testified that she is concerned for her health and she is currently not staying in the rental unit.

The Landlord testified that the building envelope windows were replaced in 2005. He testified that the tenant may have gotten a minor leak.

The Landlord testified that when he attended the unit in January 2020 it was minus 20 degrees outside and the temperature in the unit was 25 degrees Celsius.

The Landlord testified that the exterior weather stripping and windows are installed to building code requirements. The Landlord testified that he did not see any water on the

windows. He testified that he has substantial knowledge of home building and he installed the windows himself.

In reply to the issue regarding the leaking door, the Landlord testified that the door is the basement walk-out door and any snow that accumulates needs to be cleared.

The Landlord testified that he does not specifically recall the Tenant reporting an issue with the door.

The Landlord testified that he is willing to have the windows and door inspected by a qualified tradesperson and make any necessary repairs. The Landlord agreed that he would have the inspections completed within 30 days of the date of this decision.

The Landlord stated that the tenancy may be ending due to unpaid August and September 2020 rent. The Landlord testified that he has issued a notice to end tenancy to the Tenant.

### Analysis

Section 32 of the Act provides that 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.

Section 33 of the Act provides that “emergency repairs” means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
  - (i) major leaks in pipes or the roof,
  - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
  - (iii) the primary heating system,
  - (iv) damaged or defective locks that give access to a rental unit,
  - (v) the electrical systems, or
  - (vi) in prescribed circumstances, a rental unit or residential property.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Tenant is concerned about leaking windows and doors resulting in the presence of mould above healthy levels.

The Tenant's evidence contains photographs of the windows which show water. The Landlord stated that the photos he received from the Tenant are blurry and of poor quality. The Landlord suggests the report of leaky windows may be attributed to the high temperature inside the unit and the outside temperature that was minus 20 degrees.

I find that mould may be present in a home due to moisture from many different sources and reasons including but not limited to moisture from leaking windows and doors, cooking, showering, and poor ventilation.

The Tenant's evidence of the home inspection report that indicates the windows are not correctly installed conflicts with the Landlord's testimony that he installed the windows to code.

I find that it is reasonable to have an independent third party inspect the windows to determine whether or not they are installed correctly or need repair. I order the Landlord to have the windows and basement door inspected by a qualified tradesperson within 30 days of receiving this decision. If the inspection indicates the windows or door are installed incorrectly, are leaking, or need repair, I order the Landlord to have the windows and door repaired within a reasonable period of time.

I order the Landlord to provide the Tenant with a copy of the results of the window and door inspection.

Since I have not made a finding that the Landlord has breached section 32 or section 33 of the Act, I decline to order the Landlord to repay the cost of the filing fee to the Tenant.

### Conclusion

The Landlord is ordered to have the windows and basement door inspected by a qualified tradesperson within 30 days of receiving this decision. If the inspection indicates the windows or door are installed incorrectly or need repair, I order the Landlord to have the windows and door repaired within a reasonable period of time.

I order the Landlord to provide the Tenant with a copy of the results of the window and door inspection.

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: September 16, 2020

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Residential Tenancy Branch