



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding ROYAL LEPAGE EAST KOOTENAY REALTY (AKA: EAST KOOTENAY REALTY LTD.) and [tenant name suppressed to protect privacy]

## DECISION

Dispute Codes      RP DRI

### Introduction

This hearing dealt with the tenants' Application for Dispute Resolution (application) seeking remedy under the *Residential Tenancy Act* (the Act) for regular repairs to the unit, site or property, and to dispute a rent increase. The filing fee waived.

The tenant, RM (tenant) and an agent for the landlord, JS (agent) appeared at the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to present their evidence and testimony. A summary of the evidence and testimony is provided below and includes only that which is relevant to the hearing. Words utilizing the singular shall also include the plural and vice versa where the context requires.

As both parties confirmed that they had received and had the opportunity to review the documentary evidence from the other party prior to the hearing, I find the parties were sufficiently served in accordance with the Act.

### Preliminary and Procedural Matters

Firstly, the parties confirmed their respective email addresses at the outset of the hearing and were advised that the decision would be emailed to them.

Secondly, the tenant was advised that I would only be dealing with their claim for a fridge repair as I find the rent increase dispute is not closely related to this dispute and is not why the hearing was scheduled on an expedited basis. Therefore, under section 2.3 of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules) I sever the dispute rent increase portion of this application, and I grant the tenant leave to reapply for that portion.

Thirdly, the tenant was advised that the portion related to the stove, hydro bills and snow shovelling was being refused, pursuant to section 59(5)(c) of the Act as I find their application for dispute resolution did not provide sufficient particulars as is required by section 59(2)(b) of the Act. The tenants are at liberty to re-apply as a result; however, are reminded to include full particulars of their claim when submitting their application in the “Details of Dispute” section of the application.

Fourthly, as the filing fee was waived, I do not need to deal with the filing fee further in this decision.

#### Issue to be Decided

- Has the tenant provided sufficient evidence that a repair order is required under the Act related to the rental unit fridge?

#### Background and Evidence

According to the tenancy agreement submitted in evidence, a month to month tenancy began on August 1, 2019. Monthly rent is \$1,300.00 per month and is due on the first day of each month.

The tenant submitted colour photos of the interior of their fridge showing a crisper drawer that has come apart and has glue peeling from both sides where a poor attempt at a repair appears to have taken place. The agent admitted that the fridge has a broken crisper and other defect such as a loose rail at the start of the tenancy in August 2019. While the agent was unsure as to the age of the fridge, they estimated that the fridge was 10-12 years old but could not be sure.

The agent submitted a receipt in the amount of \$71.40, which states “Fridge repair service call” in the amount of \$71.40 and is dated July 31, 2019, which pre-dates the tenancy. The agent also testified that the fridge repairperson has not been able to source a new crisper or other broken parts in the fridge, such as the rail that hold in condiments. The tenant testified that when opening the fridge, the condiments fall out each time as the rail holding them in place is broken and comes loose when the fridge is opened.

During the hearing, the tenant stated that they saw a 2005 manufacturing date on the fridge, which would make the fridge 14 years at the start of the tenancy, and 15 years old at the time of this hearing. The tenant also testified that with the fridge at the

“recommended” temperature setting, their eggs freeze regularly and the fridge is not working properly as a result. The agent did not dispute that the fridge was manufactured in 2005.

### Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Firstly, I find the fridge was not repaired well in July 2019 as the glue has peeled away from the crisper drawer as seen in the photo evidence before me. I consider the repair attempt to be sloppy and that the fridge needs to be replaced as a result of the broken crisper drawer, broken condiment rail, and the recommended temperature freezing eggs when the eggs were not in the freezer. I also note the RTB Policy Guideline 40 sets out the useful life of a fridge at 15 years, and while I would not normally order a repair of a working, fully-functional fridge over 15 years of age, I find the fridge in this matter to be broken and not-functioning as required. In addition, section 32(1) of the Act applies and states:

**Landlord and tenant obligations to repair and maintain**

**32(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.**

**[Emphasis added]**

I find that a rental unit must have a fully functioning fridge as part of the monthly rent and that the landlord has breached section 32(1)(a) as a result. Therefore, I make the following orders.

- 1. I ORDER** the landlord, at their expense, to install a new fridge or a used, fully functioning fridge with a manufacturing date of **October 2015 or more recent**. In other words, the replacement fridge can not be older than 5 years and must be in fully functioning condition with no broken parts inside or outside of the fridge.
- 2. I ORDER** that #1 above must be completed within **30 days of October 2, 2020**, which was the date of the hearing.

If the landlord fails to follow my orders as described above, the tenant may apply for monetary compensation including, but not limited to, an application for a reduction in rent until such time that the repairs have been completed.

The landlord is also reminded that failure to comply with my lawful order can result in the landlord being recommended for investigation by the RTB Compliance and Enforcement Unit (CEU). The CEU can impose an administrative penalty under sections 87.3 and 87.4 of the Act. The maximum penalty for an administrative penalty under the Act is \$5,000.00 per day and may be imposed for each day the contravention or failure continues.

### Conclusion

The tenant's application is successful.

I have made 2 orders, which are listed above and which the landlord must comply with under the Act.

If the landlord fails to make the above noted repairs the tenant may apply for further monetary compensation including, but not limited to, an application for a reduction in rent until such time that the repairs have been completed.

The landlord has also been advised that the RTB CEU may be involved if the landlord fails to comply with my lawful orders.

This decision will be emailed to both parties as indicated above.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: October 7, 2020

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Residential Tenancy Branch