



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ERP

### Introduction

On October 9, 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.

Both Tenants and three Agents for the Landlord (the "Landlord") attended the hearing, and each were affirmed to be truthful in their testimony. Both parties 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

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Tenants testified that the heating system in their rental unit is not functioning properly. The Tenants testified that there is sufficient heat in the Livingroom but insufficient to no heat in the bedrooms. The Tenants testified that they advised the Landlord of the problem 12 months ago but that the Landlord had refused to fix the problem.

The Landlord testified that the rental building is heated by a boiler heating system and that if there is heat in the living room of the unit, then there is no problem with the main boiler or the unit radiators. The Landlord testified that they would attend the rental unit to adjust the valves in the bedrooms for the Tenants.

The Tenants also testified that the roof to the rental building is leaking and has caused water damage to the carpet in their rental unit.

The Landlord testified that the roof was replaced six months ago and that they have inspected the rental unit and did not find water damage to the carpets.

The Tenants testified that the toilet and pipe drainage issues contained in their original claim had been addressed by the Landlord.

### Analysis

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The Tenants' have claimed for an order for emergency repairs to the heating system for the rental unit and the roof of the rental property, pursuant to section 33 of the *Act*. Section 33 of the *Act* defines emergency repairs as the following:

#### ***Emergency repairs***

- 33** (1) *In this section, "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.*

During these proceedings, the parties offered conflicting verbal testimony regarding the need for repairs to the heating system in the rental unit and the roof of the rental property. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim; in this case, the burden of proof falls in the Tenants, as the applicant to these proceedings.

After reviewing the Tenants' testimony and evidence submission, I find that the Tenants have not provided sufficient documentary evidence to support their claim that the heating system in the rental unit and the roof of the rental property require emergency repairs. Therefore, I dismiss the Tenants' application for an order for emergency repairs.

### Conclusion

I dismiss the Tenants' application.

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: November 17, 2020

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Residential Tenancy Branch