



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

A matter regarding FIRST SERVICE RESIDENTIAL BC LTD  
and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      MNDCT, PSF, RP, FF

### Introduction

On October 6, 2020, the Tenant applied for dispute resolution seeking the following relief:

- For money owed or compensation for damage or loss under the Act, Regulation or tenancy agreement.
- for an order that the Landlord make repairs to the rental unit.
- to allow the Tenant to deduct the cost of repairs, services or facilities from the rent.

The matter was scheduled for a teleconference hearing. The Tenant and Landlord's agent ("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 evidence was reviewed and confirmed received by each party. 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.

### Issues to be Decided

- Is the Tenant entitled to an order for the Landlord to make repairs to the unit?
- Is the Tenant entitled to money owed or compensation for damage or loss?
- Is the Tenant entitled to deduct the cost of repairs, services or facilities from the rent?

### Background and Evidence

The parties testified that the tenancy began on January 1, 2015 and is currently on a month to month basis. Rent in the amount of \$2,068.00 is due to be paid to the Landlord by the first day of each month. A security deposit of \$900.00 was paid by the Tenant to the Landlord.

### Money Owed or Compensation for Damage or Loss

The Tenant is seeking \$1,600.00 which amounts to \$200.00 per month for an eight-month period from March 2020 to December 2020.

The Tenant testified that the tap in her bathroom was dripping hot water and she requested a repair. A maintenance person attended and during the repair a pipe was broken which required a plumber and further repair. The Plumber cut out part of the shower/ tub surround to access the broken pipe. The Plumber patched over the hole rather than replacing the entire shower/ tub surround. The Tenant provided three photographs showing the tub/ shower surround.

The Tenant testified that her main issue is that the tub/ shower does not look the same and that she did not have use of the shower for one month.

The Tenant testified that the sink and toilet in the bathroom were working normally and that there is also another full bathroom located in the rental unit that was functional.

The Tenant testified that she wants compensation for the delay in having the repair completed and because the shower looks ugly.

In reply, the Landlord testified that the bathroom was fully repaired in May 2020. The Landlord provided testimony confirming that they had to cut into the tub surround to repair the pipe. She confirmed that the tub surround piece was glued back on.

The Landlord submitted that it took about one month from the repair request to the completion of the repair. She submitted that the Tenant had a full working bathroom to use during the repair period.

### Rent Reduction

The Tenant is seeking a \$200.00 future rent reduction because the bathroom does not look the same and it amounts to a reduction in the value of the tenancy. She testified that she is claiming \$200.00 because the tub/shower looks ugly.

In reply, the Landlord testified that the repair does not affect the health or safety of the Tenant and does not warrant a rent reduction.

### Repairs

The Tenant is requesting that the Landlord replace the shower/ tub surround. The Tenant testified that the glue around the patch is peeling off.

In reply, the Landlord submitted that replacement of the tub surround is not warranted. The Landlord testified that the Landlord is happy to come and inspect the patch in the shower.

### 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 65(1) of the Act provides, if the director finds that a Landlord or Tenant has not complied with the Act, the regulations or a tenancy agreement, the director may order that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement.

When a party makes a claim for damage or loss, the burden of proof lies with the applicant to establish the claim. To prove the claim, the Applicant must satisfy the following four elements on a balance of probabilities:

1. Proof that the damage or loss exists;
2. Proof that the damage or loss occurred due to the actions or neglect of the Respondent in violation of the Act, Regulation, or tenancy agreement;
3. Proof of the actual amount required to compensate for the claimed loss; and,
4. Proof that the applicant followed section 7(2) of the Act by taking steps to mitigate or minimize the loss or damage being claimed.

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

I have considered whether or not the Tenant has suffered a loss. I accept that the Tenant was without the use of the bathtub/ shower for one month; however, I note that she had full use of another bathtub/ shower in the rental unit. I note the bathroom with the broken pipe also had a functional sink and toilet during the one-month repair period. I find that the Tenant was not deprived of the use of a working bathroom/ shower for one month. I find that the Tenant has not proven the value of her loss; however, I accept that she paid rent for the use of two bathrooms. I award the Tenant a nominal damages award of \$75.00 for loss of use of one bath/ shower.

With respect to the aesthetic appeal of the repaired bathroom, I note that the Act requires that a Landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and to makes it suitable for occupation by a Tenant.

The Tenant did not provide any evidence to support that a new shower/ tub surround is required in order to comply with health or safety standards or to make it suitable for occupation, or that the Landlord is required to replace this tub/ shower surround rather than repair it. While I acknowledge that the look of tub/ shower surround is not as appealing as it originally was, I find that there is no requirement under the Act for the Landlord to provide new building elements, including a new shower/ tub surround.

The Tenants request for a future rent reduction and a repair order for the shower tub surround replacement is denied and is dismissed without leave to reapply.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was partially successful with her application, I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

I authorize the Tenant to deduct the amount of \$175.00 from one (1) future rent payment.

### Conclusion

The Tenant's application was partially successful. The Tenant suffered a loss of value in the tenancy due to the loss of use of a bathroom shower/ tub for one month.

The Tenant's application for a future rent reduction and repair order was not successful and is dismissed.

I authorize the Tenant to deduct the amount of \$175.00 from one (1) future rent payment.

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: December 23, 2020

---

Residential Tenancy Branch