



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ERP, FF

### Introduction

This expedited hearing was convened as the result of the tenant's application for dispute resolution under the Residential Tenancy Act (Act) for:

- an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons; and
- recovery of the filing fee.

The tenant and the landlord's agent (agent) attended, the hearing process was explained and they were given an opportunity to ask questions about the hearing process.

The parties did not raise any issue with service of the other's evidence.

Thereafter both parties were provided the opportunity to present their affirmed evidence orally and to refer to relevant documentary and digital evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and/or arguments are reproduced here; further, only the evidence specifically referenced by the parties and **relevant to the issues and findings** in this matter are described in this Decision.

### Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons?

Is the tenant entitled to recover the cost of the filing fee?

### Background and Evidence

Filed into evidence was a written tenancy agreement showing a tenancy start date of February 1, 2020, a fixed term through January 31, 2021, and monthly rent of \$3,000.

In support of his application, the tenant submitted that there were several emergency repairs that were required. Those included repair to the drywall damage in the bedroom, furnace and heat duct cleaning, the hot tub faucet leak, an upgrade to the electrical system, providing handrails and railings on the walkways, stairs, and driveway, repairing and securing loose stones on the entrance retaining wall, further investigations with the pest control companies about rodent issues, and missing cover plates. These were the issues noted in a report from a home inspection hired by the tenant and submitted into evidence.

The tenant submitted that the taps in the bathtub, laundry room and outside were leaking.

The tenant submitted that the electrical system is old and needs to be replaced. In explanation, the tenant said that the wiring is so old, the kitchen appliances they use cause frequent tripping of the breakers, resulting in the tenant and his family not being able to use their kitchen appliances properly. The tenant said that the kitchen is the room where they most frequently use multiple appliances.

The tenant submitted further that he hired a plumbing company, who said the electrical system was dated. The tenant confirmed he did not submit that report.

The tenant also submitted that the landlord hired a plumber to fix the leaks, who, in turn, informed the tenant that they could not use the furnace system due to carbon monoxide and dirty filters.

The tenant submitted a significant amount of evidence prior to the hearing. I note that some evidence is in relation to the landlord's application, which is set for a hearing at a later date. The landlord was granted an order of possession of the rental unit due to their application; however, the tenant filed a successful Application for Review Consideration, and there is scheduled a review hearing before another arbitrator, on March 11, 2020, on the landlord's application for dispute resolution.

I have only considered the tenant's evidence that was relevant to the emergency repairs request.

Included in the tenant's relevant evidence were emails to the landlord, some concerning repair requests, photographs, and invoices.

*Landlord's response –*

The agent said that the tenant has complained continuously since the beginning of the tenancy and that they have addressed these requests. The agent said they have offered to let the tenant leave and he refuses.

As to the furnace system, the agent said the furnace was replaced last year and that it is new. The landlord submitted that the issue with the furnace is fixed, as shown in their documentary evidence dated November 20, 2020, alerting the tenant to the technician making an appointment with him. The landlord's evidence shows that they dropped off heaters to the tenant until the repair was made.

As to the electrical system, the agent submitted that the rental unit is old and therefore the wiring is old. The agent said that if they were to replace the entire system, all the walls would need to be torn down and the tenants would have to vacate.

The agent submitted that the building inspector's report was for a third party and not admissible.

The landlord's relevant evidence included communication with the tenant and invoices.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

I have referred to only the oral and written evidence which related to emergency repairs, not other repair requests of the tenant, as will be discussed herein.

As defined by section 33 of the Act, emergency repairs are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and 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.*

In this case, I find the issues relating to drywall damage in the bedroom, the leaking faucets, handrails and railings installation on the walkways, stairs, and driveway, repairing and securing loose stones on the entrance retaining wall, further investigations with the pest control companies about a rodent issues, and missing cover plates are not listed as emergency repairs under the Act. I find that any of these issues relate to section 32 of the Act, regarding regular repairs.

I find it important to note that I have not determined the merits of the tenant's other repair requests and specifically make no finding that the landlord should make other repairs.

This left two remaining issues, which could potentially fall under section 33 dealing with emergency repairs.

As to the issue with the **furnace**, I find the undisputed evidence is that the landlord replaced the furnace last year. While there may have been some issues with the heating this autumn, the evidence shows that the landlord dealt with the matter by having a repairman set up an appointment with the tenant and that the repairs have been made. While the evidence shows the tenant was not happy that the repair was not made immediately, I find it reasonable to conclude that the landlord has no control over the schedules of professional tradespeople. I find the landlord offered short term solutions, such as heaters, and contacted the repairman in a timely manner. I **dismiss** the tenant's request for a furnace repair.

As to the **electrical system**, the undisputed evidence is that the home was built in approximately 1990, and that the electrical system is original. While the tenant asserts some inconvenience in using their kitchen appliances, he has not pointed to a specific repair; rather, the tenant is seeking a full electrical upgrade or replacement. When I take into account the age and character of the rental unit, I do not find this issue is an emergency repair for health or safety or for the preservation or use of the residential property.

I **dismiss** the tenant's request for an emergency repair to the electrical system.

Conclusion

For the above reasons, I dismiss the tenant's application seeking emergency repairs and to recover the cost of the filing fee, without leave to reapply.

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: January 11, 2021

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Residential Tenancy Branch