



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      ERP, FFT

### Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant file under the Residential Tenancy Act, to have the landlord make emergency repairs.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

### Preliminary and procedural matters

During the hearing it was disclosed that the landlord in this matter is a tenant who has their own agreement with the landlord, owner of the property. The tenant has subleased the rental unit to the tenants under their own agreement.

Under a sublease agreement the sub-tenants do not acquire the full rights provided to a tenant under the Act. Nor does the original tenant (the landlord) have the right to make repairs as the landlord to a subtenant.

As I have no authority under the Act to order the landlord to make repairs as they are not the owner of property, I find I cannot order repairs to be made. I can only make such an order against the landlord/owner of the premises and the original tenant.

However, having said the above the landlord of the sublease agreement agreed to the following:

- 1) The landlord will have a qualified person attend to inspect the deck, railing and stairs to ensure their safety within the next two weeks.

I also find it appropriate to make the following orders to ensure there is no further conflicts between the parties.

- 1) **I order the landlord** upon making arrangement for the inspection, that they will notify the tenants of the date and estimated time frame. The tenants are not entitled to 24 hours notice as this is a repair requested by the tenants and said to be for emergency purposes and the inspection and/or work is outside the control of either party.
- 2) **I Order the tenants** that they **must not** deny access or block access to the deck.
- 3) **I Order the tenants** or any of their guest that they **must not** interfere in anyway with the inspection or any work to be completed.
- 4) **I Order the tenants** or any of their guest that they **must not** have any communication whatsoever, with the landlord, the person inspecting the deck or the landlord's daughter at the time of the inspection. There is no requirement for the tenants to present.
- 5) Should the tenants failed to comply with my Order 2, 3 or 4 noted above the landlord is entitled to end the tenancy for cause for failing to comply with a Directors order.
- 6) **I Order the landlord** that they are to ensure their daughter has no communication with the tenants at the time of inspection. The daughter is only there for the purpose of interpreting for the landlord.
- 7) **I Order the landlord** after the inspection has occurred, and within a reasonable time, to send the tenants an email updating the tenants on the outcome of the inspection.
- 8) Should work be determined necessary to the deck for health and safety reasons that the landlord in this matter, who is actually the original tenant, should speak to their landlord about the repairs to ensure they are aware of the problem and/or to get their consent to have the repairs made. I cannot make a repair order against the landlord as they are only the landlord due to a sublease agreement and not entitled to make repairs to the property.

I have no authority under the Act to grant the tenants' application as they are subtenants of the original tenant, and I cannot make the original tenant make repairs.

I also find the tenants response unreasonable regarding the deck repair that reads in part "no work should be done on it unless we come to a written agreement on repairs as the Tenancy board package you were served".

Firstly, the tenants have no rights to stop work, or have any say on what repairs are needed. The above statement does not support that this is an emergency repair as defined in the Act. Therefore, I do not award the tenants the cost of the filing fee.

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 27, 2021

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Residential Tenancy Branch