



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ERP, FFT**

### Introduction

This expedited hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the "Act") for:

- an order to the landlord to make emergency repairs to the rental unit pursuant to section 33;
- authorization to recover the filing fee for this application from the landlord pursuant to section 72.

Both parties attended the hearing and were given a full opportunity to be heard, to present sworn testimony, to make submissions and to call witnesses.

The parties were made aware of Residential Tenancy Rule of Procedure 6.11 prohibiting recording dispute resolution hearings and the parties each testified that they were not making any recordings.

As both parties were present service was confirmed. While both parties complained about the timing and method of service of the materials by the other, both acknowledged that they had received the materials in advance of the hearing and had ample opportunity to review the contents. Therefore, I find both parties sufficiently served with the respective materials in accordance with section 71 of the *Act*.

### Issue(s) to be Decided

Should the landlord be ordered to make emergency repairs to the rental unit?  
Are the tenants entitled to recover the filing fee from the landlord?

## Background and Evidence

While I have turned my mind to all the documentary evidence and the testimony of the parties, not all details of the respective submissions and arguments are reproduced here. The principal aspects of the claim and my findings around each are set out below.

The parties agree on the following facts. This periodic tenancy began in 2014. The current monthly rent is \$841.00 payable on the first of each month. The rental unit is a single detached home.

The parties acknowledge that the central heating system for the property, the gas furnace has experienced malfunctions throughout the tenancy and has ceased working altogether since November 2021. The landlord was informed of the malfunction on November 14, 2021 when they attended at the rental unit.

The landlord has not arranged for any repairs or maintenance of the central heating unit and testified that it cannot be repaired due to its age. The landlord further testified that they have no intention of replacing the central heating system and believes that it is not an issue as previous tenants who occupied the rental unit prior to 2014 never complained. The landlord further said that the tenants can use other means of heating the property and that they have no intention of arranging repairs or replacement of the heating system. The landlord also gave evidence that they have recently completed a condition inspection report with the tenants, 8 years since the tenancy has started and while the rental unit housed the tenants' possession in contravention of Regulation 14, and no issues were noted on the report. The landlord says they have issued a 2 Month Notice to End Tenancy for Landlord's Use shortly after the tenants raised the need for repairs to the heating system.

The tenants submit that there is currently no central heating system for the rental property and they have purchased or borrowed 8 space heaters which they are using to stave off the cold. The tenants submit that they have requested repairs or replacement on several occasions with the landlord but the landlord has refused to take any action.

## Analysis

Section 33 of the *Act* describes "emergency repairs" as those repairs that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purposes of:

- repairing major leaks in pipes or the roof,

- damage or blocked water or sewer pipes or plumbing fixtures
- the primary heating system
- damaged or defective locks that give access to the rental unit
- the electrical systems
- in prescribed circumstances, a rental unit or residential property

Based on the undisputed evidence of the parties I find that the primary heating system for the rental property is not working. Given the location of the rental unit and the outside temperatures at this time of year I find that repairs are necessary for the health and safety of the tenants and are of an urgent nature. While the tenants use several space heaters to avoid immediate exposure to the elements, I find this to be an unsustainable and inadequate stopgap measure.

I accept the evidence of the parties that the deficiency has been known to the parties and the landlord has neglected to perform the repairs as they felt it was cost inefficient.

Therefore, I find it appropriate to issue an order that the landlord perform the following repairs:

Replace or repair the central heating system for the rental property such that it provides sufficient heating to the building.

I order that the repair or replacement be completed by February 25, 2022. Should the repair or replacement of the central heating system not be completed by that date the tenants are at liberty to apply for a monetary award for reduction in the value of the tenancy agreement due to the deficiencies.

As the tenants were successful in their application, I order that they may recover the filing fee from the landlord. As this tenancy is continuing, the tenants may satisfy this monetary award by making a one-time deduction of \$100.00 from their next scheduled rent payment.

Conclusion

The landlord is ordered to make repairs as set out above by February 25, 2022.

The tenants are authorized to make a one-time deduction of \$100.00 from their next scheduled 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: February 4, 2022

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Residential Tenancy Branch