



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      **PSF, OLC**

### Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order requiring the landlord to provide services or facilities required by the tenancy agreement or law pursuant to section 62(3);
- An order requiring the landlord to comply with the Act pursuant to section 62;

The tenant attended with the agent and witness RJ ("the tenant"). The tenant had opportunity to provide affirmed testimony, present evidence and make submissions. The hearing process was explained.

The tenant affirmed they were not recording the hearing. They confirmed the email address to which the Decision will be sent.

### *Preliminary Issue - Service upon Landlord*

The landlord did not appear at the hearing. I kept the teleconference line open from the scheduled time for the hearing for an additional 16 minutes to allow the landlord the opportunity to call. The teleconference system indicated only the tenant and I had called into the hearing. I confirmed the correct call-in number and participant code for the landlord had been provided.

As the landlord did not attend the hearing, the tenant provided information of service upon the landlord.

The tenant provided affirmed testimony that they served the landlord with the Notice of Hearing and Application for Dispute Resolution by registered mail sent on November 1, 2021 to the landlord's residential address. Under section 90 of the *Act*, the documents are deemed received by the landlord five days later, that is, on November 6, 2021

The tenant submitted the mailing receipt as evidence which included the Canada Post Tracking Number.

Pursuant to the tenant's evidence and sections 89 and 90, I find the tenant served the landlord with the Notice of Hearing and Application for Dispute Resolution on November 6, 2021.

#### Issue(s) to be Decided

Is the tenant entitled to the relief requested.

#### Background and Evidence

The tenant provided uncontradicted evidence as the landlord did not attend the hearing.

The tenant stated the monthly tenancy began November 1, 2014. A security deposit of \$350.00 was provided at the beginning of the tenancy which the landlord holds. Rent is \$527.50 payable at the beginning of the month. A copy of the lease was submitted which states that a washer and dryer is included.

The unit is one of two apartments in a building. The occupant of the second apartment, RJ, attended as a witness and agent for the tenant. RJ confirmed the tenant's testimony. Each unit has its own washer and dryer.

The tenant stated that her unit's washer stopped working and shortly afterwards the landlord served the tenant with a Notice Terminating or Restricting a Service or Facility in form #RTB-24. The Notice is dated December 1, 2021 and stated that the washing machine would be removed effective January 1, 2022 as it is blocked or leaking. A rent reduction was included in the Notice.

The tenant brought this application on December 13, 2021. They testified that no rent reduction was in effect.

The tenant paid a plumber to fix the washing machine at her own expense after three weeks of it not working. They stated that having an operating washer is very important t.

The washing machine now works. The tenant requested that the Notice be cancelled. They requested that the landlord be directed to comply with the tenancy agreement and provide a washer and dryer. The tenant stated she is afraid the landlord will remove the washer and will not fix even small repairs.

### Analysis

I accept the tenant's evidence was direct and clear. The evidence was supported in all respects by RJ.

I have considered section 27 of the Act which states (emphasis added):

- 27** (1) A landlord must not terminate or restrict a service or facility if
- (a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or
  - (b) providing the service or facility is a material term of the tenancy agreement.
- (2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord
- (a) gives 30 days' written notice, in the approved form, of the termination or restriction, and
  - (b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

In section 62, the Arbitrator has authority as follows:

- 62** (1) The director has authority to determine
- (a) disputes in relation to which the director has accepted an application for dispute resolution, and
  - (b) any matters related to that dispute that arise under this Act or a tenancy agreement.
- (2) The director may make any finding of fact or law that is necessary or incidental to making a decision or an order under this Act.
- (3) The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or

tenant comply with this Act, the regulations or a tenancy agreement *and an order that this Act applies.*

I find the Notice is ineffective as the reason for the issuance has been resolved. The tenant's washer is working. The tenant has not applied for reimbursement of the repair expenses and is at liberty to do so.

The landlord may issue another Notice. However, the Notice Terminating of Restricting a Service or Facility dated December 1, 2021, is cancelled and is of no effect.

The landlord is directed to comply with the tenancy agreement and provide a washer and dryer to the tenant.

### Conclusion

I make the following Orders.

1. The Notice Terminating of Restricting a Service or Facility dated December 1, 2021 is cancelled and is of no effect.
2. The landlord is directed to comply with the tenancy agreement and provide a washer and dryer to the tenant.

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: March 28, 2022

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Residential Tenancy Branch