



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

Dispute Codes      RP FF

### Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A hearing by telephone conference was held on March 29, 2022. The Tenants applied for an order that the Landlord complete repairs to the property, pursuant to section 32 of the *Residential Tenancy Act* (the *Act*).

Both parties attended the hearings and provided testimony. All parties were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed that they received each other's evidence packages, and neither party raised any issue with the service of any of the documents or evidence. I find all parties have sufficiently served their evidence for the purposes of this hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure and evidence that is relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Are the Tenants entitled to an order requiring the Landlord to make repairs to the rental unit?

### Background and Evidence

The Tenants testified that they moved into the rental unit on November 1, 2016, and for the first few years of the tenancy, a property management company effectively

managed the rental unit, and addressed any repair issues that came up (appliance repair etc). The Tenants stated that starting last summer, they began to have issues with getting repairs done, and this pattern continued into the fall and winter of 2021. The Tenants stated that the Landlord stopped employing the previous property manager, and took over managing the unit herself sometime in November 2021.

The Tenants have been trying for many months to have a few issues resolved. The Tenants initially applied to have the Landlord repair the following 4 items:

- 1) Deck posts
- 2) Bat proofing
- 3) Back door repair
- 4) Gutter cleanout

At the time of the hearing, the Tenants stated that the door has been repaired, and so the remainder of the hearing was spend canvassing the other 3 issues.

#### 1) Deck Posts

The Tenants stated that they initially notified the previous property manager in June 2021 about the issue with the deck posts. Following this, the Tenants stated that they had many back and forth conversations about different repair companies coming and different quotes, although much of their dissatisfaction came from how much time they had to spend waiting for no apparent reason for the repairs to be done.

The Tenants provided some photos of the 3 deck posts on their deck, which support a roof structure over the deck itself. The Tenants stated that these posts are metal, and the bases have rotted out, to the extent that they are no longer structurally sound. The Tenants assert this is a safety risk. The Tenant provided copies of numerous emails about having the posts repaired, but nothing has been done.

The Landlord acknowledged that the posts need repairing, but asserted that it is too expensive to repair. The Landlord stated she has had multiple quotes, and she feels they are all too expensive. However, she noted that recently she has been communicating with another contractor who may be able to repair the posts more cost effectively. The Landlord opined that the Tenants have caused some of the corrosion on the posts by letting their pet's urine permeate the post area, and corrode it. The Landlord also stated that there have been supply issues with COVID, and flooding that have made repairs more difficult.

The Tenants deny their pet has urinated on the deck and that this would be an issue.

## 2) Bat Proofing the exterior of the house

The Tenants stated that on September 8, 2021, they sent an email to the Landlord's previous property manager, and informed them that there was a few bats that had infiltrated the house and were flying around inside. The Tenants stated that a bat proofing company came on September 15, 2021, and confirmed there were bats, and that it was an issue that needed addressing, professionally. The Tenants stated that the Landlord came mid-September, and another company was hired to consult the issue. The Tenants stated that following this, they are still waiting for a company to come and plug the holes, where the bats gain entry to the house. The Tenants believe the bats are getting in near the chimney area. Copies of emails were provided showing communication on this issue.

The Landlord acknowledged there is an issue with bats, but stated it is not as bad as the first company stated, as there were only a few bat poops, and not an infestation. The Landlord stated that she felt the costs were too high with the first quote, so she recently reached out to the second company and confirmed she requested that they come back. The Landlord stated that she asked the company to come back and bat proof the house on March 26, 2022, but she has not heard back yet, as it was only a couple of days ago.

## 3) Gutters

The Tenants stated that the gutters have been overflowing for quite some time, and when it rains, a large amount of water flows over the edge of the gutter, flooding the entry points to the house. The Tenants stated that the gutters do not drain water properly, which causes a "waterfall" of water when they enter and leave the home. The Tenants also have to go outside through an external door to do laundry. The Tenants stated that the gutter leak is also starting to erode the ground around the house because of the quantity of water that escapes. The Tenants stated that they asked the Landlord's agent for repairs on this issue around November 4, 2021, by email, but nothing was done.

The Landlord acknowledged that the gutters may not be draining properly, but she stated this used to be the responsibility of her property manager. The Landlord stated this issue was never address by the previous manager, and so now it is up to her to

complete this task. The Landlord stated that she has reached out to a company, very recently, and they are scheduled to come and clean out the gutters on April 2, 2022.

### Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, nor will I speak to and summarize all documentary evidence. I will focus on evidence and testimony as it relates directly to my findings.

Section 32 of the *Act* mandates the Tenant's and Landlord's obligations in respect of repairs to the rental unit and provides as follows:

#### Landlord and tenant obligations to repair and maintain

- 32** (1) 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.
- (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.
- (3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.
- (4) A tenant is not required to make repairs for reasonable wear and tear.
- (5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

The *Residential Tenancy Act Regulation – Schedule: Repairs* provides further instruction to the Landlord as follows:

- 8** (1) Landlord's obligations:

(a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a tenant. The landlord must comply with health, safety and housing standards required by law.

(b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

I will address the items in the same order as above:

#### 1) Deck Posts

I have reviewed the testimony and evidence on this matter, and I find there is no evidence to support that the Tenants are responsible for any of the degradation or corrosion of the deck posts, as it relates to pet urine or misuse. I find it more likely than not that this is due to general age and natural degradation from the elements. I find this is a potential safety issue, which warrants attention. I appreciate that there are costs associated with repairing these posts, which the Landlord feels are too high. I also acknowledge there may have been exacerbating factors, delaying the repairs (flooding and COVID supply issues). However, regardless of these issues, I find the Landlord must satisfactorily repair these posts as soon as practicable, and must have the repairs completed no later than 1 month after the date of this decision. I note this issue has gone on for many months, with little to no action, and by delaying the repairs for so long, the Landlord is not complying with section 32(1)(a).

#### 2) Bat Proofing

I note there is no dispute that there are bats in and around the house. The Landlord does not feel the issue is as severe as the Tenants assert. However, the Landlord is also willing to have this issue addressed. Again, I accept that there are costs associated with this type of work. However, I find there are potential health risks with having bats being able to freely enter the inside of the rental unit. Again, I find the issue is a breach of section 32(1)(a), as it is a health and safety issue, given bats have been observed inside the house.

I note the Landlord stated that she asked the bat proofing pest control company to come back and bat proof the house on March 26, 2022, but she has not heard back yet. I

order the Landlord to follow through with this repair, and the Landlord must have the bat issue professionally addressed, and remedied, forthwith. I order the Landlord procure a qualified contractor and substantially complete the repairs within a month of the date of this decision.

### 3) Gutters

The Tenants assert the gutters are plugged, and they do not function when it rains, which causes cascades of water to pour on them when they enter and exit the building. It is also causing erosion in the yard. I note that gutters are a normal part of a residential building construction, and this component of the house is not currently functioning correctly. I find this is a breach of section 32(1)(a), as the gutters are a basic component of a residential house, and in this case it is impacting the Tenants regularly, and in an ongoing manner.

I note the Landlord stated that she has hired a gutter company to come and repair the gutters, and that this is to take place on April 2, 2022. I order the Landlord to follow through with this repair, and the Landlord must have the gutter drainage issue professionally addressed, and repaired, forthwith. I order the Landlord procure a qualified contractor and substantially complete the repairs within a month of the date of this decision.

Further, section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. Since the Tenants were successful in this hearing, I order the Landlord to repay the \$100. The Tenants may deduct \$100.00 from one future rent payment.

### Conclusion

The Tenant's application for repairs is granted, as laid out above.

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 30, 2022