



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      ERP, FFT

### Introduction

The tenant applicants apply for emergency repairs pursuant to s. 33 of the *Residential Tenancy Act* (the “Act”) as well as the return of their filing fee pursuant to s. 72.

A.V.B. appeared as Tenant. None of the other co-applicant tenants attended. A.D. appeared as agent for the Landlord.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing.

The Tenant advised that the co-applicant tenants would not be attending the hearing. Pursuant to Rule 7.3 of the Rules of Procedure, the hearing was conducted in their absence.

The Tenant indicates that the Landlord was served with the Notice of Dispute Resolution and evidence by way of registered mail. The Landlord acknowledges receiving the Tenant’s application materials on March 16, 2022, however notes that there were written submissions provided on March 18, 2022 in a separate package.

Rule 10.3 of the Rules of Procedure requires an applicant for an expedited hearing to serve their evidence in one package. I find that the Tenant’s application materials were served in accordance with s. 89 of the *Act* and were acknowledged received by the Landlord. However, I advised during the hearing that the written submissions of March 18, 2022 were not served in accordance with Rule 10.3 as it was in a separate package and are not included in the record.

The Landlord's agent advised that the Landlord served their responding evidence on the Tenant on March 16, 2022. The Tenant acknowledges receiving the same from the Landlord. I find that pursuant to s. 71(2) of the Act that the Tenant was sufficiently served with the Landlord's responding evidence based on the Tenant's acknowledged receipt of the same.

#### Issue(s) to be Decided

- 1) Should the Landlord be ordered to undertake emergency repairs?
- 2) Are the tenants entitled to the return of their filing fee?

#### Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issue in dispute will be referenced in this decision.

The parties confirmed the following details with respect to the tenancy:

- The Tenant took possession of their rental unit in 2017.
- Rent of \$1,350.00 is due on the first day of each month.
- The Landlord holds a security deposit of \$675.00 in trust for the Tenant.

The Tenant indicates that her rental unit is part of a two-building complex managed by the Landlord. She further stated that the two buildings' exterior locks share the same key and that they are not connected to one another from the interior.

The Tenant advised that the two buildings have faced a series of incidents with respect to theft of personal property. The Tenant did not mention that she had her personal property stolen but spoke about the theft of eight bicycles and an incident in which a thief made use of power tools to cut through a lock.

The Tenant argued that the string of thefts were the result of the two buildings sharing the same locks and that the exterior locks had not been rekeyed in some time.

The Landlord indicates that issues with the property are initially dealt with by the resident manager and that they are cycled up to the Landlord's office when warranted. The Landlord says that they received their first complaint from the Tenant with respect to the locks at the building on February 10, 2022. The Tenant says that the issues have

been present since July of 2021. The Landlord provided a series of emails between the parties over February and March 2022.

When asked about the lock to the Tenant's rental unit, the Tenant admitted that it was working properly though her doorknob had fallen off recently and was repaired. The Tenant could not comment on the functioning status of the locks for the other rental units. The Landlord indicates that the Tenant advised them of the doorknob on February 15, 2022. The email put into evidence on this point indicates that Tenant had advised the resident manager some two-weeks prior of the doorknob to her rental unit.

The Landlord's agent advised that they had a locksmith attend the property on February 16, 2022 and fixed the Tenant's doorknob. On that occasion, the Landlord's agent says that he and the locksmith conducted a security check of the property. At the time, the locksmith advised him that the exterior locks were functioning properly.

The Landlord's agent indicates that there are no signs of forced entry and argued that the thefts are "behavioural" in nature. He says that unauthorized individuals are gaining access by following others into the building or getting buzzed in by residents pretending to be a delivery person.

The Tenant argues that the issues are more than mere behavioural issues. The Tenant further argued that the personal safety of the buildings' tenants was imperilled by the current circumstances. Both parties mentioned that property thefts have been a problem within the neighbourhood in which the residential property is located.

The Landlord's agent further indicates that a locksmith attended the property again on March 2, 2022. On that occasion, locks were placed on the doors to the storage area and the laundry room. A further inspection was conducted of the exterior door locks. They were said to be functioning properly at that time by the locksmith. The Tenant indicates that the additional locks to those rooms was appreciated and that the matter has been addressed more proactively by the Landlord since A.D. has become involved in February 2022.

### Analysis

The tenants apply for emergency repairs.

Section 33(1) of the *Act* defines "emergency repairs" as repairs that are:

- urgent;
- necessary for the health and safety of anyone or for the preservation or use of the residential property; and
- made for the purpose for repairing:
  - major leaks in the pipes or the roof;
  - damaged or blocked water or sewer pipes or plumbing fixtures;
  - the primary heating system,
  - damaged or defective locks that give access to a rental unit,
  - the electrical systems, or
  - in prescribed circumstances, a rental unit or residential property.

Presently, the Tenant describes issues with thefts from common areas of the building, specifically mentioning that the keys for the two buildings are circulating amongst former occupants of the buildings. The Tenant provides no evidence of this.

The Tenant admits that the lock to her rental unit is functioning properly and cannot comment with respect to the locks to the rental units for the co-applicant tenants. The Tenant argued that the issue with the locks, from her perspective, is related to locks giving access to the common areas of the residential property.

The only basis upon which the present complaint could qualify as an emergency repair under s. 33 would be under s. 33(1)(c)(iv), which is for damaged or defective locks that give access to a rental unit. The term “rental unit” is defined under s. 1 of the *Act* as the living accommodation rented or intended to be rented by a tenant. A rental unit is differentiated from a “residential property”, which is defined under s. 1 as a building in which multiple rental units are located.

I find that the Tenant has failed to establish that there is a need for emergency repairs within the narrow meaning of s. 33(1)(c)(iv) on the basis that she admits that the lock giving access to her rental unit is functioning properly. Locks to the residential property writ large do not fall within the circumstances in which an emergency repair can be said to exist as defined by s. 33(1) of the *Act*.

On this basis, I dismiss the tenants’ application.

Conclusion

The Tenant has failed to establish that “emergency repairs”, as defined by s. 33(1) of the *Act*, are necessary under the circumstances. Accordingly, I dismiss the application under s. 33 of the *Act* without leave to reapply.

As the tenants were unsuccessful within their application, I find that they are not entitled to the return of the filing fee under s. 72 of the *Act*. They shall bear the cost of their own application.

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 22, 2022

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Residential Tenancy Branch