



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RR, FFT

### Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking a rent reduction.

The hearing was conducted via teleconference and was attended by the tenant and the landlord.

Neither party identified any issues related to the service of hearing documents or evidence. Both parties were prepared to proceed with the hearing.

### Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to rent reduction for repairs and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 33, 65, 67, and 72 of the *Residential Tenancy Act* (Act).

### Background and Evidence

The parties agreed the tenancy began on January 2, 2017 on a month to month basis for a current monthly rent of \$1,446.03 due on the 1<sup>st</sup> of each month with a security deposit of \$600.00 and a pet damage deposit of \$600.00 paid.

The tenant submitted that ever since 2018 there has been a problem with the toilet in the rental unit. She stated it was slow flushing and that the problem got progressively worse over time.

The tenant provided that she contacted the landlord who agreed for her to call a plumber. She submitted that the landlord spoke with the plumber and authorized the replacement of the toilet. She stated that the existing toilet could not be repaired and that the problem was with the design of the toilet and that there were no clogs found by the plumber.

In support of her position the tenant has provided a letter from the plumbing company outlining the details of the relevant events. I note that in the letter the dates given indicate the year was 2022, however I accept this was an administrative error and have considered the dates as 2021. In this letter the company has provided the following relevant information:

- August 18, 2021 - Our technician attended site and diagnosed the toilet needed replacement: "Augured toilet. Toilet would not flush properly. Replaced toilet talked to owner replaced with same style of toilet that was there but easier to get parts for it's an American standard elongated right height toilet. Disposed of toilet.
- August 30, 2021 - Received a call from the landlord with a labour dispute. I advised that travel time to his home is billable as stipulated on our invoice. He was very agitated when he called in. I spoke further with the technician and he advised that the renter (Rachel) had called us in, and the owner had no idea we were coming from Nanaimo. He was going to send our technician home, until our plumber told him "We are here now, so it would be cheaper than bringing somebody else in". The landlord agreed. And he also gave us approval to replace the toilet as it was unrepairable.
- September 1, 2021 - We explained to him that we tried to auger the toilet because water was not going down by flushing. The bowl was not pushing water through, we pulled toilet off and there was no standing water in pipe. The toilet was unrepairable. It was a Costco toilet, and we often see this issue with Costco toilets.
- September 2, 2021 - I provided the landlord (Lance) a full breakdown of costs for labour and materials. We advised Lance that the service technician indicated there was a blockage in the toilet, he spent time trying to free it up but could not, hence the recommendation to replace the toilet. There was no blockage in the piping. The toilet was already disposed of, otherwise we could have broken it open to see what it was but we typically just dispose of.
- Generally it is a foreign object dropped into the toilet that becomes lodged, that said sometimes the casting in the p-trap can be faulty by means of hanging porcelain in the weir. When the casting is faulty generally it is an ongoing issue with the toilet plugging.
- The plumbing company had provide response to the landlord that stated: "Lance, people put more than toilet paper in toilets, I already answered your auguring question below, about an hour, I understood he also tried backwards when the toilet was off the floor. As far as I am concerned there is no issue to resolve. We tried to clear the blockage, could not and replaced the toilet per your instructions. Please remit payment ASAP and thanks again for the business."

The tenant also submitted a copy of her receipt dated November 25, 2021, confirming she paid the plumber for the invoice in the amount of \$942.90.

The landlord submitted that there had been no issues with the toilet prior to this tenancy and that based on the latest information provided by the plumbing company.

Specifically, the plumbing company's indication that there are two specific issues that may cause the problem identified by the tenant – either a foreign object or the design of the toilet itself. In addition, the suggestion that people put more than toilet paper into toilets.

### Analysis

Section 32(1) of the *Act* states 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.

Section 32(2) states a tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the tenant, or a person permitted on the residential property by the tenant.

From the documentation provided from the plumbing company, I find that there is no evidence that confirms what the actual reason a replacement toilet was provided. From the company's original assessment, they have stated that there was no blockage found in the toilet through the action using an auger to dislodge any blockage or by inspection of the toilet after its removal.

I find that while the plumbing company acknowledges they may have found something out if they had broken up the toilet to see inside before they disposed of it, they could have not provided a more definitive reason as to what the actual issue was.

I find the plumbing company has only confirmed that the reason for replacement could have been the design of the original toilet or that there may have been a blockage. However, I also find that the plumbing company did provide confirmation that, based on the work that they did do they could confirm that they did not find any blockage at all.

As such, I find there is insufficient evidence that the tenant is responsible for any damage to the toilet or that the toilet was required to be replaced as a result of the tenant's actions. Therefore, pursuant to Section 32 of the *Act*, I find the landlord is responsible for the cost associated with the replacement of the toilet.

I also accept, based on the tenant's receipt, that she paid for the replacement of the toilet. As such, I find the tenant is entitled to the reimbursement of the costs she incurred as a result of paying the bill to the plumbing company.

Conclusion

I find the tenant is entitled to monetary compensation pursuant to Section 67 in the amount of **\$1,042.90** comprised of \$942.90 for the toilet replacement and the \$100.00 fee paid by the tenant for this application.

I order the tenant may deduct this amount from one future rent payment in satisfaction of this award, pursuant to Section 72(2)(a).

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: April 14, 2022

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Residential Tenancy Branch