



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      RP, FFT

### Introduction

On September 2, 2021, the Tenant made an Application for a Dispute Resolution Proceeding seeking a repair Order pursuant to Section 32 of the *Residential Tenancy Act* (the “*Act*”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

On September 7, 2021, this Application was originally set down to be heard on December 21, 2021. This Application was subsequently adjourned twice, for reasons set forth in the Interim Decisions dated December 21, 2021 and January 26, 2022. This Application was then set down for a final, reconvened hearing on March 21, 2022 at 11:00 AM.

The Tenant attended the final, reconvened hearing. The Landlord attended the hearing as well, with Y.L. and D.M. attending as agents for the Landlord. At the outset of the hearing, I explained to the parties that as the hearing was a teleconference, neither party could see each other, so to ensure an efficient, respectful hearing, this would rely on each party taking a turn to have their say. As such, when one party is talking, I asked that the other party not interrupt or respond unless prompted by myself. Furthermore, if a party had an issue with what had been said, the parties were advised to make a note of it and when it was their turn, they would have an opportunity to address these concerns. The parties were also informed that recording of the hearing was prohibited and they were reminded to refrain from doing so. All parties acknowledged these terms. As well, all parties in attendance provided a solemn affirmation.

During the original hearing, service of documents was addressed. As I am satisfied of service, I have accepted the parties’ evidence and will consider it when rendering this

## Decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

### Issue(s) to be Decided

- Is the Tenant entitled to a repair Order?
- Is the Tenant entitled to recover the filing fee?

### Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

All parties agreed that the tenancy started on December 1, 2010, that rent was currently established at \$994.91 per month, and that it was due on the first day of each month. A security deposit of \$425.00 was also paid. A copy of the signed tenancy agreement was submitted as documentary evidence.

With respect to the Tenant's request for a repair Order, it should be noted that it took a significant amount of time during the first hearing to even establish the nature of the Tenant's claims as he was not organized, and he had difficulties outlining the specific issues that allegedly required repairs. As well, due to his inability to explain these claims in a prepared, efficient manner, multiple adjournments were required as he forgot which issues he wanted addressed, he would go back and forth on different issues, or he would attempt to address new issues, when making submissions.

Over the course of these adjournments, the Landlord had offered to conduct repairs of some issues. Despite this, the Tenant prolonged the hearings. In my view, if the Tenant truly needed repairs so urgently, it is not clear why he continually delayed the proceedings instead of working with the Landlord to address his concerns.

Regardless, after a considerable amount of dialogue during the first hearing, the Tenant was finally able to summarize the items that he would like addressed and were in need of repairs. He listed the following ten items:

- 1) Carpet
- 2) Kitchen flooring
- 3) Kitchen cabinets
- 4) Fridge
- 5) Stove
- 6) Painting
- 7) Bathroom sink/burnt counter
- 8) Bathroom toilet
- 9) Bathroom curtain rod
- 10) Bathroom flooring

The Tenant made submissions on these claims and stated that he requested these repairs in writing; however, they were not addressed. He submitted that these deficiencies were due to the items being past their useful life and required being replaced. He referenced the documentary evidence submitted to support his position. It should also be noted that throughout the hearings, despite the parties being informed to refrain from interjecting when the other party was making submissions, the Tenant would continually do so. After being reminded to cease this behaviour, it was necessary to mute the Tenant so that submissions could be made by the other party and to ensure that the hearings proceeded in an efficient, respectful manner.

The Landlord and his agents made submissions in response to the Tenant's claims. They stated that when they were notified of any potential repair issues, they investigated the requests. They stated that the Tenant does not clean or maintain the rental unit and he lives in a manner that has caused the rental unit to fall into a state of disrepair. The Tenant continues to live in this manner and simply wants the Landlord to renovate and upgrade the condition of the rental unit for the Tenant. Over the course of the multiple hearings, the Landlord has addressed, or is in the process of addressing, some of the requested issues despite refuting the Tenant's claims that the repairs were necessary because these items were at the end of their useful life. They referenced documentary evidence submitted to support their position.

In addition, the Landlord advised that he recently dispatched a person to conduct four to six hours of cleaning in the rental unit in an effort to complete some requested repairs. It

was determined by this cleaning person that the Tenant has simply not been cleaning the rental unit.

### Analysis

Upon consideration of the testimony before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this Decision are below.

Section 32 of the *Act* requires that the Landlord provide and maintain a rental unit that complies with the health, housing and safety standards required by law and must make it suitable for occupation. As well, the Tenant must repair any damage to the rental unit that is caused by their negligence.

I find it important to note that when two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making the claim has the burden to provide sufficient evidence over and above their testimony to establish their claim. Given the contradictory testimony and positions of the parties, I must also turn to a determination of credibility. I have considered the parties' testimonies, their content and demeanour, as well as whether it is consistent with how a reasonable person would behave under circumstances similar to this tenancy.

When reviewing the totality of the evidence before me, I note that much of the Tenant's evidence appears, in my view, to support the Landlord's submissions that the Tenant is not cleaning in the rental unit, and this is the reason for the state of the rental unit. In addition, I note that the Tenant prolonged the hearings despite the Landlord offering to address some issues. In my view, if the Tenant truly needed repairs so urgently, it is not clear to me why he continually delayed the proceedings instead of working with the Landlord to address those concerns. Furthermore, given the Tenant's somewhat antagonistic and combative demeanour during the hearings, I find this demonstrated a pattern elicited by the Tenant which was consistent with the Landlord's submissions. For these reasons, I am doubtful of the credibility and reliability of the Tenant's submissions, and I prefer the Landlord's evidence on the whole.

When weighing all of the evidence before me, I do not find that the Tenant has submitted sufficient documentary evidence to support his allegations. I am satisfied, on a balance of probabilities, that most, if not all, of the Tenant's complaints are primarily

due to his negligence. As a result, I dismiss the Tenant's requests for the above noted repair Orders as they have either already been addressed by the Landlord, they have not been substantiated by the Tenant as necessary, or they have not been substantiated by the Tenant as being part of the Landlord's responsibility under Section 32 of the *Act*.

As the Tenant was not successful in this Application, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this Application.

### Conclusion

I dismiss the Tenant's Application without leave to reapply.

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 5, 2022

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Residential Tenancy Branch