



# Dispute Resolution Services

Residential Tenancy Branch  
Office of Housing and Construction Standards

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## **DECISION**

Dispute Code: ERP

### **Introduction**

The tenants seek an order for emergency repairs to the rental unit pursuant to sections 33 and 62(3) of the *Residential Tenancy Act* (the “Act”).

A hearing was originally held before a different arbitrator on November 8, 2022. However, due to technical issues, neither party was able to dial into the hearing and it was rescheduled to November 10, 2022. According to the Residential Tenancy Branch’s internal file notes on this application both parties were provided with a new *Notice of Dispute Resolution Proceeding* with today’s hearing access codes and dial-in telephone numbers.

Only the tenants attended the hearing, which began at 11:00 AM and ended at 11:15 AM. Neither respondent landlord participated in the hearing. The applicants confirmed that they served copies of their documentary evidence on the respondents.

### **Issue**

Are the tenants entitled to an order for emergency repairs?

### **Background and Evidence**

Relevant evidence, complying with the *Rules of Procedure*, was carefully considered in reaching this decision. Only relevant oral and documentary evidence needed to resolve the issue of this dispute, and to explain the decision, is reproduced below.

At the outset, the tenants testified that the problem with the bedbugs had essentially been resolved. As such, I need not address the problem with the bedbugs (which would, as mentioned during the hearing, likely not fall under an application for emergency repairs such as this one).

However, the remaining, more urgent problem is with the primary door to the rental unit. It is badly damaged. The lock is ineffective and simply does not work. The door and the non-working lock, which is part of the doorknob, have not worked since the day the tenancy began. And the tenancy began in March of 2022.

Because of the inoperable lock on the door, one of the tenants is forced to stay home if the other tenant goes out, as the door simply cannot keep people (such as vagrants) from trying to come into the rental unit if they want. “Nobody should have to block their door” in order to stay safe, the tenant Mr. B remarked.

Despite repeated requests made to the respondents, including a letter dated September 21, 2022, in which the tenant (Ms. B.) asks again for the landlords to fix the door, the respondents have done nothing to address the issue. It is the tenants’ opinion that the solution is a new door and a new door jamb.

### Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 62(3) of the Act states that

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.

Section 33(1) of the Act states that

In this section, “emergency repairs” means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
  - (i) major leaks in pipes or the roof,
  - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,

- (iii) the primary heating system,
- (iv) damaged or defective locks that give access to a rental unit,
- (v) the electrical systems, or
- (vi) in prescribed circumstances, a rental unit or residential property.

Section 33(3) of the Act states that

A tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

Based on the facts before me, it is my finding that the non-locking door to the rental unit is a repair that is urgent—the tenants cannot enjoy even the most basic security due to the inoperable lock. The door lock repairs are, furthermore, necessary for the health and safety of the tenants and for the preservation and use of the residential property. Last, the repairs would be made for the purpose of repairing a damaged or defective lock that gives access to the rental unit. As such, the repairs are “emergency repairs.”

Further, having found that emergency repairs are needed, it is also my finding (pursuant to subsections 33(3)(b) and (c) of the Act) that the tenants have made at least two attempts to have the repairs made and that the landlords have had more than a reasonable time to make the repairs. More than eight months, as it were.

It is also worth noting that the landlords are required under the legislation to maintain the rental unit in a state of repair that makes it suitable for occupation by the tenants (see section 32(1)(b) of the Act). A rental unit that cannot be properly locked cannot be said to be “suitable for occupation.” The landlords would not find it acceptable to live in a home without a working, lockable front door. Nor should the tenants find it acceptable.

Given these facts, supported by the oral and documentary evidence before me, it is my finding that the tenants are entitled to an order pursuant to sections 33 and 62(3) of the Act. This order is set out on the next page.

IT IS HEREBY ORDERED, pursuant to section 62(3) of the Act, that the landlords:

1. Replace the existing door of the rental unit with a new door.
2. Replace the existing door jamb with a new door jamb.
3. Ensure that the new door includes either (a) a working, lockable doorknob, or (b) a working deadbolt lock if the doorknob is not lockable.
4. Complete the installation of the new door and the new door jamb within 10 days of receiving a copy of this Decision.

The repair as set out above shall not be considered completed until both the new door and the new door jamb are installed and in good working order.

If the landlords do not complete the repairs within the 10 days as ordered above, then the tenants are authorized under section 65(1)(f) of the Act to withhold \$31.00 in rent, per day, for each day that the repairs remain uncompleted beyond the 10-day period. These deductions shall continue until the landlords complete the repairs.

Any accumulated withheld rent may then be deducted from the rent when the tenants make their monthly rent payment.

### Conclusion

For the reasons given above, including the order made under section 62(3) of the Act, the tenants' application is granted.

This decision is made on delegated authority under section 9.1(1) of the Act.

Dated: November 10, 2022

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Residential Tenancy Branch