



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## DECISION

Dispute Codes      **ERP**

### Introduction

This is an application by tenant by way of an expedited hearing seeking;

- an order requiring the landlord to make emergency repairs pursuant to section 33 of the Act

The landlord RK attended the hearing. The tenant DN also attended. All parties present were given a full opportunity to be heard, to present their sworn testimony and to make submissions under oath.

The hearing was conducted by conference call. The parties confirmed they were not recording the hearing pursuant to Rule of Procedure 6.11. The parties were affirmed.

The landlord acknowledged receipt and service of the dispute notice and evidence package. The tenant acknowledged receipt and service of the landlord's evidence package in respect of this hearing. I find that service is in accordance with sections 88 and 89 of the Act.

### Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to complete emergency repairs?

### Background and Evidence

The tenancy commenced June 1, 2020 on a month to month basis. Rent is \$1,300.00 per month due on the first day of the month. The landlord holds a \$650.00 security deposit in trust for the tenant. The tenant is not currently occupying the rental unit but wishes to continue the tenancy.

The tenant stated during the hearing that he occupies a unit in the top floor of the rental property. The roof has leaked for over a year; however the leak became very significant in his unit in October of 2022 and on October 27, 2022 he advised the landlord of the leak. He stated that water comes through the ceiling and runs down the walls in his unit. The carpet in the unit is wet. There is water coming through a light fixture in the hallway. There is also water coming through the kitchen ceiling. He expressed concerns about mold. He is currently occupying the unit next to his unit as it is unoccupied. He stated that the moisture levels in his rental unit are very high, and he can't currently occupy the rental unit. The tenant provided numerous photos of the water damage in evidence.

The landlord agreed that the roof is leaking, and he stated that he is in the process of making repairs. He is doing the repairs himself, it is a flat roof building, and the repairs will take a significant amount of time. He also stated that it is difficult to make roof repairs given the season. He disagrees with the extent of the water in the unit as described by the tenant. However, at one point he made a hole in the drywall to allow the water to drain off the roof as he had concerns about the weight of the water sitting on the roof. He was not clear on where this hole was located. He is unable to find a contractor to do the work. He expressed concern with the tenant living in the rental unit next door to the subject rental unit as he did not seek permission or sign a new tenancy agreement to occupy the other unit.

### Analysis

Section 33 of the Act states:

- 33** (1) 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,

It is not in dispute that the roof is leaking, and that it is affecting the tenant's rental unit and causing damage. Both parties agree, and there is photographic evidence in

support. Roof leaks are defined under the Act as an emergency repair. I find that the tenant has established through his evidence that the roof leak is affecting his rental unit.

I find that although the landlord wishes to make the repairs himself, which he is entitled to do under section 33(4) of the Act. However, that does not relieve the landlord from completing the repairs in a reasonable time

The landlord acknowledges the roof leak and is making repairs. Given that the repairs are of an emergency nature as defined by the Act I find that the tenant is entitled to an order requiring the landlord to complete emergency repairs to the roof by February 28, 2023.

I find that the tenant has established through the evidence of both parties that the requested repairs are emergency repairs as they are urgent, necessary for the preservation or use of the rental unit and involve a major leak of the roof.

### Conclusion

I order the landlord to make emergency repairs to the roof of the rental property to prevent further leaks into the tenant's rental unit as soon as possible and in any event no later than January 31, 2023."

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: January 4, 2023

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Residential Tenancy Branch