



# Dispute Resolution Services

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Residential Tenancy Branch  
Ministry of Housing

A matter regarding ONNI PROPERTY MANAGEMENT  
SERVICES and [tenant name suppressed to protect privacy]

## **DECISION**

Dispute Codes      RP, FF

### Introduction

This hearing was convened as the result of the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied for an order for repairs to the rental unit and recovery of the filing fee.

The tenant, the tenant's agent, JC, and the landlord's agents attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process. All parties were affirmed.

At the outset of the hearing, the landlord confirmed receipt of the tenant's evidence; however, the tenant denied receiving the landlord's evidence. The issue will be addressed within this Decision.

The hearing continued and the participants were provided the opportunity to present their evidence orally and to refer to relevant evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch (RTB) Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

### Preliminary and Procedural Matters-

As noted above, the tenant denied receiving the landlord's evidence. After a full hearing, the matter was adjourned to allow the landlord to serve their evidence to the tenant. An Interim Decision was made in this matter on May 13, 2023. That Decision is incorporated by reference herein and should be read in conjunction with this Decision. The evidence deadlines were June 7, 2023, at which time the statutory timeframe for a Decision began. I note both parties complied with the evidence deadlines in the Interim Decision and I find the evidence of both parties was sufficiently served on the other party.

Section 77 of the Act states that the director does not lose authority in a dispute resolution proceeding, nor is the validity of a decision affected, if a decision is given after the 30 day period in subsection (1) (d).

#### Issue(s) to be Decided

Is the tenant entitled to the order sought above and recovery of the filing fee?

#### Background and Evidence

The written tenancy agreement filed in evidence shows the tenancy began on March 1, 2019, for a monthly rent of \$1450, and a security deposit of \$725. Current monthly rent is \$1537, according to the tenant.

While the tenant did not provide details in her application regarding what specific repairs were applied for, the tenant provided documentary evidence showing that repair request dealt with the glass stove top and stove wiring issues.

The tenant testified at the hearing regarding her issues with the stove top. In her written statement, the tenant provided more details of the events. The relevant parts are reproduced as follows, apart from redacting identifying information:

*My unit has had a stove top heating issue since I moved in, in March 2019. On March 7, 2019, I emailed Mr. (landlord's agent EC) regarding my home issues needing to be fixed: this included issue of the stove.*

*On November 16, 2021, ONNI conducted unit inspections. I listed all issues in my unit that needed to be repaired, these were written at the bottom of the inspection notice. .... The*

stove top heating issue (#5 on the inspection notice, # 1 on the February 9, 2022 email to EC) was one of the items on my list.

*The right front burner has always had the heating issues. The heat is not consistent. The heating element temperature heats up, cools down etc. Sometimes, when the control is turned to the off position, the heating element remains engaged. On Jan 28, 2022, I was preparing dinner for my family. I turned on the heat, placed the pan on the stovetop and was ready to add oil to the pan when I heard a pop sound, followed by a second pop sound. I quickly removed the pan and saw a single thermal stress crack on the stove top. I turned off the heat and took pictures. I messaged EC regarding my stove top issue and attached the stove top images. Of note, the pictures show that the glass top has had heavy use in the past, prior to my moving in (**Stovetop Image 1, Stovetop Image 2**).*

*On February 1, 2022, EC had a technician (referred to as 'he') come over to check my washing machine issue. At the same time, he also checked the stove top. He told me (verbally) there was a problem with the switch and the wiring in the stove, which is consistent with a thermal crack appearing. He also saw that there was no stress crack or any signs that would have been a result of a heavy or hard object being dropped on the glass surface. He took some pictures. I did not receive any paper or documents describing the inspection. He just verbally told me the problems.*

*On February 9, 2022, EC dropped by and told me that his manager was not going to pay for the stove top repair. EC checked the stove top and took some pictures and relay these images to his manager.*

*Since February 9, 2022, I did not receive any response from EC regarding the stove top issue. I sent text messages and emails regarding my stove top; I was totally ignored regarding the stovetop issue by EC until April 18, when EC sent me a vague text message that a handyman would arrive on April 19 with no reference as to what the handyman would repair.*

*On October 10, 2022, I emailed customer care at ONNI, stating that my stove top issue could lead to a fire hazard. KT, ONNI Residential Property Manager replied to me. He replied to me in writing that the stove top was in **perfect** condition and had no damages when I moved into the unit. (**Stovetop Image 1, Stovetop Image 2**) These images show that the stovetop had seen significant use prior to my moving in.*

*..... On October 20, 2022, a technician came and checked the stove. He mentioned that the stove switch has an issue (again, verbally). I told him that the stove heating was inconsistent. He also could see that the crack was not caused by any hard or sharp object impacting the surface. He also mentioned that ONNI was not willing to approve or to pay*

*for all repairs according to his experiences. The technician took some photos and left without giving me any documents relating to his findings.*

Evidence filed by the tenant included text messages, emails, and photographs.

In response, the landlord testified as follows: That the text messages shows that the stove was first addressed in 2021. The residential property was previously managed by an agent who no longer works for the company. The condition of the stove now was not a reflection of how the stove was when the tenancy began. The building was constructed in 2016. The landlord offered to replace the stovetop at the tenant's expense and have the tenant re-pay the cost on a payment plan.

In a written statement of rebuttal, the landlord submitted in part as follows, apart from redacting identifying information:

On January 28th of 2022, just short of 3 years after your move in, you reported the crack on your stove. You provided zero evidence of there being any correspondence regarding the stove in between those 2 instances. As per your statement, we had it inspected a few days later in February 2022.

Your claim that the comments sections of the move-in checklist were left blank is duly noted. However, it is important to understand that while comments are helpful, the primary purpose of the move-in checklist is to document the condition of the items listed. The absence of comments does not necessarily imply negligence or compromise in the accuracy of the inspection.

With reference to your statement (point #5) :

[REDACTED] stated that the stove was in perfect condition according to the move in condition report, and that no damages were noted (Oct 11, 2022 email). The crack occurred post move in therefore there would be no such note.

The crack occurred almost 3 years into your tenancy and the appliance repairman noted that there was no electrical issues found and the crack likely occurred due to weight or impact. It was also noted that the crack does not pose a safety issue and just a cosmetic issue which we believe you caused.

As such, we do not take responsibility for any further repairs of the glass stove top.

The landlord provided an invoice from a home repair company, dated October 27, 2022, reproduced in part as follows:

Diagnostic Fee

Service Call Fee (Stove)

No electric issues found , Damage was cosmetic only

No fire concern found.

In further testimony, the tenant's agent, JC testified to the following: The life span for inexpensive appliances is not that long. The tenant cannot use the stovetop due to the

fire hazard. The technician report was not comprehensive and the tenant was never provided with any reports. From viewing the crack in the stove top, the type of crack is thermal, not a stress crack.

### Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The Act requires the landlord to provide and maintain the rental unit in a state of decoration and repair that complies with the health, safety, and housing standards required by law.

From my viewing of the photo showing the cracked stovetop, the crack appears to be significant, and absent proof from a service technician, I would have ordered a replacement of the stovetop. However, the evidence shows the landlord hired a service company, whose invoice showed repairs and full service were made to the dryer and which also showed a diagnostic test on the stove. The service report shows that there were no electrical issues, that the damage was cosmetic and there was no fire concern.

For this reason, I find the landlord addressed the stovetop issue raised by the tenant and their technician did not find a reason to have the stovetop replaced. As a decision maker, I must rely on the evidence presented to make a determination on the balance of probabilities and I am unable to overlook the technician's report of October 27, 2022 as they are presumed to be an expert on the matter of the appliance.

For the above reasons, I find the tenant submitted insufficient evidence that the landlord has not complied with their obligation under the Act.

I dismiss the tenant's application to order the repair to the stovetop for the above issue, without leave to reapply.

I also dismiss the tenant's request for recovery of the filing fee.

### Conclusion

For the reasons listed, the tenant's application is dismissed, 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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: July 15, 2023

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Residential Tenancy Branch