



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      RP, FFT

### Introduction

This matter was adjourned to written submissions following a hearing on May 26, 2023 regarding the Tenant's application under the *Residential Tenancy Act* (the "Act") for:

- an order for the Landlord to make repairs to the rental unit pursuant to section 32; and
- authorization to recover the filing fee for this application from the Landlord pursuant to section 72.

By an interim decision dated May 26, 2023 (the "Interim Decision"), I adjourned this matter to written submissions with a deadline of June 2, 2023. This decision should be read together with the Interim Decision.

The parties did not reach a settlement by the stipulated deadline. As such, this decision is being issued on the merits of the case.

### Issues to be Decided

1. Is the Tenant entitled to an order for repairs?
2. Is the Tenant entitled to reimbursement of the filing fee?

### Background and Evidence

While I have turned my mind to all the accepted documentary evidence and the testimony presented, only the details of the respective submissions and arguments relevant to the issues and findings in this matter are reproduced here. The principal aspects of this application and my findings are set out below.

This tenancy commenced on June 15, 2021. Rent is \$2,600.00 due on the first day of each month. The Tenant paid a security deposit of \$1,300.00.

The rental unit came furnished with a couch that has become peeled and worn over the course of the tenancy.

The Tenant gave the following testimony:

- The couch is a cheaply made faux leather couch and started breaking down shortly after the Tenant moved in. By nine months into the tenancy, it was peeling significantly. Later, the Landlord saw that the couch was quite worn. The Landlord had not seen the couch previously because the Tenant had put a blanket over it. The parties got into a dispute about who should pay for the couch.
- The Tenant does not use the couch often, maybe maximum once a week. The Tenant watches TV in his bedroom. The Tenant had a friend who was going through a breakup stay on the couch for a weekend. The Tenant does not have roommates sleeping on the couch permanently. The Tenant denies that there is damage to the couch caused by sun exposure. The Tenant keeps the blinds closed most of the time as he works shifts.
- The Tenant does not know how old the couch is, but it could be four to six years old and the couch would not last that long. When the material started breaking down, it took off and there was not much that the Tenant could do.
- The Landlord asked the Tenant to pay for 50% of a replacement couch but did not provide proof of the original purchase price. The Landlord provided reference prices of genuine leather couches which are much more expensive.

The Landlord gave the following testimony:

- The couch was purchased brand new four years ago and was in good shape at the start of the tenancy. The Landlord has photos and the parties' move-in condition inspection report.
- In December 2022, the Landlord visited the rental unit and accidentally noticed that the couch was damaged. The Landlord asked the Tenant what was wrong with the couch and he did not say anything. Later when the Landlord texted pictures of the couch to the Tenant, the Tenant acknowledged that his friend slept on the couch for a few nights.
- The Tenant did not take proper care of the couch and allowed it to be exposed to the sun which caused damage. The Tenant would not accept responsibility for the damage.
- The Landlord disagrees that the problem had started shortly after the tenancy. The Tenant did not raise any issues with the Landlord, and if the Tenant had

done so, the Landlord could have rectified the situation by providing a cover or oil treatments for the leather.

### Analysis

#### *1. Is the Tenant entitled to an order for repairs?*

Section 32(1) of the Act states that a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Based on the photos submitted, I find the couch to be quite worn and peeling in multiple areas. However, I find the couch is still functional and usable if covered by a blanket. I am not satisfied that the Landlord's obligation under section 32(1) of the Act requires the Landlord to replace the couch at this time. Accordingly, I dismiss the Tenant's claim for a repair order without leave to re-apply.

I note this application is not about the parties' rights to keep the security deposit at the end of the tenancy. If the parties are unable to come to an agreement about the couch, the parties are at liberty to make further applications regarding compensation or regarding the security deposit after the tenancy is ended. I do not make any finding as to whether the state of the couch reflects reasonable wear and tear, or damage caused by the actions or neglect of the Tenant or the Tenant's guest.

#### *2. Is the Tenant entitled to reimbursement of the filing fee?*

The Tenant has not been successful in this application. I decline to award reimbursement of the Tenant's filing fee under section 72(1) of the Act.

### Conclusion

This application is dismissed in its entirety without leave to re-apply.

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: July 01, 2023