



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Ministry of Housing

## **DECISION**

Dispute Codes      CNL-MT, RR, RP, PSF, LRE, OLC  
OPL, FFL

### Introduction

This hearing dealt with cross Applications for Dispute Resolution filed by the parties under the *Residential Tenancy Act* (the “Act”). The matter was set for a conference call.

The Tenant’s application for Dispute Resolution was made on May 15, 2023. The Tenant applied to cancel a Two Month Notice to End Tenancy for the Landlord’s Use of the Property (the “Notice”) dated March 15, 2023, for more time to file to dispute the Notice, for an order for the Landlord to make repairs to the rental unit, for an order that the landlord to provide services or facilities required by the tenancy agreement or law, for a rent reduction for repairs, after a written request to make repairs, for an order to suspend or set conditions on the landlord's right to enter the rental unit or site, and for an order that the Landlord comply with the *Act*.

The Landlord’s Application for Dispute Resolution was made on May 15, 2023. The Landlord applied to enforce a Two Month Notice to End Tenancy for the Landlord’s Use of the Property (the “Notice”) dated March 15, 2023, and to recover the filing fee paid for their application.

The Landlord and the Tenant attended the hearing and were each affirmed to be truthful in their testimony. Both the Tenant and the Landlord were provided with the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. The parties agreed that they have exchanged the evidence that I have before me in these proceedings

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matter – Issues to be Heard

At the outset of these proceedings, the Landlord and the Tenant agreed that this tenancy had ended before the date of these proceedings. The Landlord confirmed that they have possession of the rental unit.

As this tenancy ended before the date of these proceedings, I find that it is no longer necessary that a decision is made regarding the validity of the Notice to end tenancy or the need for an order of possession to the rental unit for this tenancy. Therefore, I am dismissing the Tenant's claims to cancel a Two Month Notice to End Tenancy for the Landlord's Use of the Property (the "Notice") dated March 15, 2023, and for more time to file to dispute the Notice. I am also dismissing the Landlord's claim to enforce a Two Month Notice to End Tenancy for the Landlord's Use of the Property (the "Notice") dated March 15, 2023.

As the only issue on the Landlord's application was for an order to enforce their Notice, I find that the Landlord's full application has been dismissed, and therefore they are not entitled to recover the \$100.00 filing fee they paid for this hearing.

Additionally, as this tenancy has already ended I find that there no need to make a determination on the Tenant's claims for an order for the Landlord to make repairs to the rental unit, for an order that the landlord to provide services or facilities required by the tenancy agreement or law, for an order to suspend or set conditions on the landlord's right to enter the rental unit or site, and for an order that the Landlord comply with the *Act*, as these issues are related to a active tenancy.

I will continue in these proceedings on the only remaining claim before me, for a rent reduction for repairs, after a written request to make repairs, filed by the Tenant, as this issue may be applied retroactively for a tenancy.

Issue to be Decided

- Is the Tenant entitled to a rent reduction for repairs, services or facilities agreed upon but not provided?

### Background and Evidence

While I have turned my mind to all of the accepted documentary evidence and the testimony of the parties, only the details of the respective submissions and/or arguments relevant to the issues and findings in this matter are reproduced here.

The tenancy agreement recorded that the tenancy began on November 11, 2022, as a month-to-month tenancy, that rent in the amount of \$1,250.00 was to be paid by the fifteenth day of each month and the Landlord collected a \$625.00 security deposit. The Landlord and the Tenant submitted a copy of the tenancy agreement into documentary evidence.

The parties agreed that this tenancy ended on May 13, 2023, the date the Tenant moved out of the rental unit.

The Tenant testified that they repeatedly reached out to the Landlord verbally and by text message making multiple requests for the Landlord to repair the heat, hot water, and electrical issues in the rental unit but that the Landlord refused. The Tenant submitted that they are requesting all of their rent back between December 2022 – May 2023, in the amount of \$7,500.00, due to the Landlord not completing the required repairs to the rental unit. The Tenant submitted a four-page timeline of events and three screenshots of text messages into documentary evidence.

The Tenant submitted that they initially reached out to the Landlord via text message on December 6, 2022, that they had concerns about the heating for the rental unit.

The Tenant submitted that they initially reached out to the Landlord via text message on December 7, 2022, that they had concerns about a spark in an outlet in the rental unit.

The Tenant submitted that they spoke to the Landlord sometime in December 2022 and that during that conversation they advised the Landlord that their hot water cuts off after 10 minutes.

The Landlord submitted that they attended the rental unit after getting the Tenant's messages but that they found no issues that needed to be repaired.

The Tenant submitted that they emailed the Landlord on March 21, 2023, listing the repairs needed to the rental unit.

The Tenant testified that they reached out to their local fire department on March 24, 2023, regarding the electrical outlet in their rental unit. The Tenant submitted that the fire department attended the rental unit and ordered that the electrical outlet be repaired.

The Landlord confirmed that they received the notice from the fire department on March 24, 2023, requiring them to make a repair to an electrical outlet in the rental unit. The Landlord and Tenant agreed that the repair to the electrical outlet was completed on March 25, 2023.

The Landlord submitted that they had completed all the required repairs to the rental unit and that the Tenant is not entitled to any rent back for this tenancy.

### Analysis

Based on the evidence before me, the testimony, and on a balance of probabilities I find that:

The Tenant has claimed that they had reported three repair issues, including heat, hot water, and electrical, to the Landlord and that the Landlord had failed to make these required repairs in a timely manner. In this case, as this tenancy has already ended, the Tenant is seeking a retroactive rent reduction, in the amount of, \$7,500.00, due to the Landlord not completing repairs to the rental unit after the Tenant had contacted the Landlord in writing to request repairs.

During the hearing, the parties to this dispute provided conflicting verbal testimony regarding the Tenant's requests for repairs to the rental unit during this tenancy. In cases where two parties to a dispute provide equally plausible accounts of events or circumstances related to a dispute, the party making a claim has the burden to provide sufficient evidence over and above their testimony to establish their claim, in this case, that is the Tenant, as the Tenant is the applicant in these proceedings.

I have reviewed all of the Tenant's documentary and digital evidence submitted to these proceedings, and I find that there is insufficient evidence before me to show that there had been a written request for repairs to the rental unit served to the Landlord, or that

the Landlord had failed to respond to written requests for repairs in a timely manor during this tenancy. Consequently, I must dismiss the Tenant's claim for a rent reduction for repairs, services or facilities agreed upon but not provided.

I acknowledge the Tenant's claim that they wrote to the Landlord by text message and email. However, the Tenant was advised during these proceedings, that text message is a convent way for parties to communicate with one another, but it is not recognized as a legal method of service for documents during a tenancy. As for email, email service has been recognized as an approved method of service for legal documents; however, in order to use that method, the parties must agree to this in advance to be served this way. The Residential Tenancy Policy Guideline #12. Service Provisions states the following:

"A tenant or landlord must provide to the other party, in writing, the email address to be used. There is no prescribed form for doing so, but parties may want to use RTB-51 "Address for Service" form and provide it to the other party."

As there is no agreement, before me in these proceedings, to show that the Landlord had agreed to email service for this tenancy, I cannot accept the Tenant's email as appropriate serve on this matter. Additionally, the Tenant has not submitted a copy of the email they claimed was sent to the Landlord in evidence for these proceedings, making it impossible for me to consider this email even if there been an agreement for email service between these parties.

In this case, the Tenant needed to formally serve their request for repairs to their Landlord in writing, on paper, in order to have met the requirement for a monetary claim under the Act.

Conclusion

I dismiss the Tenant's application for a rent reduction for repairs, not completed after a written request.

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: September 27, 2023

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Residential Tenancy Branch