

## **FINAL DECISION**

### **Introduction**

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This hearing dealt with the tenants' application for dispute resolution, filed on April 25, 2023, under the *Residential Tenancy Act* ("Act") for:

- an order requiring the landlord to make repairs to the rental unit, under sections 32 and 62 of the *Act*;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* ("*Regulation*"), or tenancy agreement, under section 62 of the *Act*;
- authorization to recover the \$100.00 filing fee paid for this application, under section 72 of the *Act*.

The landlord's lawyer, the two tenants, "tenant KH" ("tenant") and "tenant CH," the tenants' advocate JK, and the tenants' advocate's law student attended the first hearing. The landlord's lawyer and the two tenants attended the second hearing. The landlord's lawyer, the two tenants, and the tenants' advocate YB attended the third hearing.

At all hearings, both parties were given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. All 3 hearings lasted approximately 191 minutes total, which is 3 hours and 11 minutes.

The first hearing lasted approximately 75 minutes from 11:00 a.m. to 12:15 p.m. The landlord intended to call 2 witnesses, "witness BT" and "witness FW," who left the hearing at 11:04 a.m., did not testify, and did not hear evidence or testimony from either party. The tenants intended to call 1 witness, "witness DZH," who left the hearing at 11:08 a.m., did not testify, and did not hear evidence or testimony from either party.

The second hearing lasted approximately 19 minutes from 9:30 a.m. to 9:49 a.m. The landlord intended to call 2 witnesses, "witness BT" and "witness FW," who were available and prepared to testify at the second hearing but did not attend or testify. The tenants intended to call 1 witness, "witness DZH," who was not available or prepared to testify or attend the second hearing.

The third hearing lasted approximately 97 minutes from 9:30 a.m. to 11:07 a.m. The landlord intended to call 1 witness, “witness FW,” who was available and prepared to testify at the third hearing but did not attend or testify. The tenants intended to call 1 witness, “witness DZH,” who was available and prepared to testify at the third hearing but did not attend or testify.

At all hearings, all hearing participants confirmed their names and spelling. At all hearings, the landlord’s lawyer and the tenant both provided their email addresses, for me to send copies of my decisions to both parties.

At all hearings, the landlord’s lawyer confirmed the legal name of the landlord company (“landlord”) that owns the rental unit. At all hearings, she confirmed that she had permission to represent the landlord.

At all hearings, both parties provided the rental unit address.

Rule 6.11 of the Residential Tenancy Branch (“RTB”) *Rules of Procedure* (“Rules”) does not permit recordings of any RTB hearings by any participants. At the outset of all hearings, all hearing participants separately affirmed that they would not record all hearings.

### **Preliminary Issue – Two Previous Adjournments of Hearing**

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At the first hearing and in my first interim decision, I noted that the first hearing was adjourned because it lasted 75 minutes, which is longer than the 60-minute maximum hearing time, and the hearing did not complete.

At the second hearing and in my second interim decision, I noted that the second hearing was adjourned, after I granted the tenants’ adjournment request. The tenants stated that their advocate and their witness were unavailable, so they could not proceed with the second hearing. They requested an adjournment after August 2023, when their advocate was available, and more than a week’s notice of a new hearing date.

At the first hearing and as noted in my first interim decision, the landlord’s lawyer confirmed that the landlord only wanted to call 2 witnesses, and the tenants’ advocate affirmed that the tenants only wanted to call 1 witness, whose names appear on the cover page of this decision. I informed both parties that they would not be entitled to call any further witnesses, aside from the 3 total witnesses noted above, at future hearings, since they did not want to call them at the first hearing, and the future hearings were only continuations to complete the first hearing.

At the first hearing and as noted in my first interim decision, I informed both parties that the future hearings were only to hear remaining submissions from the tenants' advocate regarding remedies, direct and cross-examination of the tenants' 1 witness and the landlord's 2 witnesses, reply from the landlord's lawyer, and reply from the tenants' advocate.

At the first hearing and in my first interim decision, I noted the following. Both parties were ordered not to submit any further evidence. No witnesses were permitted to testify at the future hearings, except for the landlord's 2 witnesses and the tenants' 1 witness. Neither party was permitted to file any new applications after the first hearing date of August 11, 2023, to be joined and heard together with the tenants' application, at the future hearings. The tenants were not permitted to file any amendments to their application, after the first hearing date of August 11, 2023.

### **Preliminary Issue – Hearing and Settlement Options**

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At the first hearing and as noted in my first interim decision, I explained the hearing and settlement processes, and the potential outcomes and consequences, to both parties.

At all hearings, both parties had an opportunity to ask questions, which I answered. At all hearings, neither party made any adjournment or accommodation requests.

At the first hearing and as noted in my first interim decision, both parties affirmed that they were ready to proceed, they wanted me to make a decision, and they did not want to settle this application. Both parties were given multiple opportunities to settle but declined to do so.

At the first hearing and as noted in my first interim decision, I cautioned the tenants and their advocate that the tenants may be unsuccessful, if I dismissed their application without leave to reapply. The tenants and their advocate affirmed that the tenants were prepared to accept the above consequences if that was my decision.

At the first hearing and as noted in my first interim decision, I cautioned the landlord's lawyer that the landlord may be unsuccessful, if I granted the tenants' application. The landlord's lawyer stated that the landlord was prepared to accept the above consequences if that was my decision.

## **Preliminary Issues – Service of Documents and Amendment**

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At the first hearing and as noted in my first interim decision, the landlord's lawyer confirmed receipt of the tenants' application for dispute resolution hearing package and the tenants' advocate confirmed receipt of the landlord's evidence. In accordance with sections 88 and 89 of the *Act*, I found that the landlord was duly served with the tenants' application and both tenants were duly served with the landlord's evidence.

At the first hearing and as noted in my first interim decision, pursuant to section 64(3)(c) of the *Act*, I amended the tenants' application to replace the name of the landlord-respondent party. Both parties consented to same. I found no prejudice to either party in making this amendment.

## **Settlement Terms**

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Pursuant to section 63 of the *Act*, the Arbitrator may assist the parties to settle their dispute and if the parties settle their dispute during the dispute resolution proceedings, the settlement may be recorded in the form of a decision and orders. During the third hearing, the parties discussed the issues between them, turned their minds to compromise, and achieved a resolution of their dispute.

Both parties agreed to the following final and binding settlement of all issues currently under dispute at this time:

1. The landlord, at its own cost, will engage a licensed plumber to inspect the main water line at the property by December 31, 2023, and complete any repairs recommended by the licensed plumber, at the landlord's own cost;
2. The landlord, at its own cost, will engage a licensed plumber to inspect the kitchen sink plumbing in the tenant's rental unit by December 31, 2023, and complete any repairs recommended by the licensed plumber, at the landlord's own cost;
3. The landlord, at its own cost, will engage a snow removal company at such times as snow removal is required on the property, as determined by the landlord;
4. The landlord, at its own cost, will engage a licensed electrician to assess the bathroom light fixtures and the bathroom exhaust fans in the tenant's rental unit by December 31, 2023, and complete any repairs recommended by the licensed electrician, at the landlord's own cost;
5. The landlord, at its own cost, will provide regular cleaning of the common areas at the property;

6. The landlord, at its own cost, will replace 3 door mats at the property, namely 2 at the front entrance and 1 at the east entrance, by December 31, 2023;
7. The landlord, at its own cost, will engage a contractor to assess all 4 entrance doors at the property, by December 31, 2023, and complete any repairs recommended by the contractor, at the landlord's own cost;
8. The tenants agreed that this settlement agreement constitutes a final and binding resolution of their entire application.

These particulars comprise the full and final settlement of all aspects of this dispute for both parties. Both parties affirmed at the hearing that they understood and agreed to the above terms, free of any duress or coercion. Both parties affirmed that they understood and agreed that the above terms are legal, final, binding, and enforceable, which settle all aspects of this dispute.

The terms and consequences of the above settlement were reviewed in detail, with both parties during the lengthy 97-minute third hearing. Both parties were provided with ample time during the third hearing to think about, ask questions, discuss, negotiate, and decide about the above settlement terms.

The tenants were provided with ample time during the third hearing to speak privately with their advocate. The landlord's lawyer was provided with ample time during the third hearing to speak privately with the landlord.

The tenants affirmed that they agreed to this settlement with the assistance of their advocate YB, at the third hearing.

The landlord's lawyer confirmed that she had permission to make this agreement on behalf of the landlord.

A filing fee is a discretionary award usually issued by an Arbitrator if an applicant party is successful after a decision is made by the Arbitrator after a hearing, based on the merits of the application. I was not required to make a decision based on the merits of the tenants' application, as both parties agreed to voluntarily settle it.

As the tenants agreed to settle their entire application, this includes the \$100.00 filing fee paid for this application. Accordingly, the tenants must bear the cost of the \$100.00 filing fee paid for their application.

## Conclusion

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I order both parties to comply with all of the above settlement terms.

The tenants must bear the cost of the \$100.00 filing fee paid for their application.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under section 9.1(1) of the *Act*.

Dated: November 28, 2023

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Residential Tenancy Branch