



# Dispute Resolution Services

Page: 1

Residential Tenancy Branch  
Office of Housing and Construction Standards

## **Decision**

### **Dispute Codes:**

RP, RR, O, FF

### **Introduction**

This hearing dealt with an Application for Dispute Resolution by the tenant seeking an order to force the landlord to complete repairs and a rent reduction for loss of value to the tenancy. The tenant was also seeking an order to force the landlord to comply with the Act, an order to force the landlord to complete necessary repairs, and an order for emergency repairs.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

### **Issue(s) to be Decided**

Is the tenant entitled to monetary compensation under section 67 of the Act?

Is the tenant entitled to an order to force the landlord to complete necessary repairs?

### **Background and Evidence**

The tenancy began in April 2013 and the rent is \$1,150.00. A security deposit of \$475.00 was paid.

The tenant testified that, shortly after the tenancy began, they needed the locks repaired and the landlord did take care of this problem.

The tenant testified that they also had an issue with the dryer which had malfunctioned. The tenant testified that this has since been repaired, but still makes noises.

The tenant testified that their dish washer stopped working and was removed by the landlord. According to the tenant this was not reinstalled because of the repair costs. The tenant feels that the loss of the dishwasher has devalued the tenancy.

The tenant testified that they also complained to the landlord that their home is infested with spiders, ants and raccoons, but the landlord has failed to investigate the problem or hire a pest-control expert. According to the tenant, the situation has negatively impacted their right to the use and quiet enjoyment of their home.

The tenant testified that they are currently having some issues with the water, but this matter is in the process of being rectified.

The tenant stated that the rental unit may be contaminated with mould, which the tenant could detect by the odour, but the landlord has refused to carry out a proper investigation.

The tenant complained that the landlord is billing the tenant for use of water, despite a verbal agreement they allegedly made at the time the tenancy began. The tenant testified that the landlord had agreed that the tenant would not be billed for water usage because she cannot afford this utility.

The landlord responded to each of the tenant's allegations. The landlord stated that the dryer situation was addressed immediately and only took four days to fix. The landlord pointed out that the tenant was not significantly inconvenienced by the problem as it was taken care of without delay.

With respect to the broken dishwasher, the landlord testified that he believes that the tenants were responsible for causing it to breakdown by putting glass in it. The landlord testified that this made him reluctant to reinstall the appliance. However, the landlord stated that he is willing to restore the dishwasher without further delay. The landlord made it clear that he does not feel that the tenant is entitled to be compensated through a rent abatement for being without a dishwasher.

In regard to the alleged insect and animal infestations, the landlord consented to engaging a qualified pest-control expert to look into the problem at the earliest opportunity and take whatever measures are called for under the circumstances.

In regard to the allegations of mould, the landlord testified that the tenant reported the problem to him, but could not show him where the mould was and therefore he did not have enough information to try and remedy the tenant's complaint.

In response to the tenant's allegation that they should not be billed for their water usage, the landlord denied that there was ever a verbal agreement to waive these

costs. The landlord pointed out that the written tenancy agreement signed by the tenant clearly shows that water usage is not included as part of the rent. The landlord testified that the tenant is in arrears for the water utility payment and has withheld part of the rent.

### **Analysis**

Section 58 of the Act provides that, except as restricted under this Act, a person may make an application for dispute resolution in relation to a dispute with the person's landlord or tenant in respect of any of the following:

- (a) rights, obligations and prohibitions under this Act;
- (b) rights and obligations under the terms of a tenancy agreement that
  - (i) are required or prohibited under this Act, or
  - (ii) relate to the tenant's use, occupation or maintenance of the rental unit, or the use of common areas or services or facilities.

Section 6 of the Act also states that the rights, obligations and prohibitions are enforceable between a landlord and tenant under a tenancy agreement and either party has the right to make an application for dispute resolution if they cannot resolve a dispute over the terms of their tenancy agreement. (My emphasis)

Given the above, I find that, I am authorized as an arbitrator to make determinations and orders to enforce the Act or the tenancy agreement. I find that both the Act and the contact terms are involved in the dispute before me on this application. The use of the dishwasher is a term in the tenancy agreement and identifying who agreed to pay for utilities is also a term of the tenancy agreement.

I find that section 32 of the Act provides 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, having regard to the age, character and location of the rental unit to make it suitable for occupation by a tenant. Given this section of the Act, I find that the landlord's responsibilities include responding promptly to investigate complaints of vermin infestation and mould odours. A landlord is expected to find out whether the tenant's complaints are valid, and if so, take further action.

In this instance I find that some of the repair and maintenance issues had already been dealt with by the landlord. I further find that the landlord expressed a willingness to deal with the complaints brought forth by the tenant and made a commitment to restore the dishwasher, to investigate the vermin complaint and also to get an expert to examine whether or not there is mould/mildew based on the smells being reported by the tenant.

I find that the landlord's agreement to address these matters will likely resolve the tenant's concerns, failing which the tenant can pursue dispute resolution in future.

In regard to the tenant's belief that they are not responsible for paying for their own water usage, I find that a written tenancy agreement prevails over any verbal agreements and the tenant must reimburse the landlord for the cost of their own water usage.

With respect to the tenant's claim for a rent abatement due to the loss of the dishwasher, I find that this repair should reasonably have taken no more than a month to complete and the tenant should have been able to use the dishwasher thereafter.

In this instance, I find that the parties had freely contracted for a tenancy in which the dishwasher was included in the rent and this is an enforceable term of the tenancy, unless changed in the manner described in section 27, below.

Section 27 of the Act states a landlord must not terminate or restrict any service or facility if it is essential to the tenant's use of the rental unit. However a service or facility, other than an essential or material one may be restricted or terminated provided that the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility. (my emphasis)

I find that the deprivation of the dishwasher is valued at \$30.00 per month for two months and the tenant is entitled to total compensation of \$60.00 for the past loss. This is premised on the assumption that the landlord will re-install the dishwasher within one week after receiving this decision as promised.

Based on the evidence and testimony, I find that all of the other matters under dispute in the tenant's application have been adequately resolved for the present time, due to the landlord's willingness to cooperate.

I hereby grant the tenant monetary compensation as a one-time rent abatement in the amount of \$110.00, comprised of a \$60.00 rent abatement for two months and the \$50.00 cost of this application. I order that the tenant deduct this amount from their next rent payment to the landlord as a single lump-sum rent abatement.

The tenant's application seeking orders for repairs is hereby dismissed with leave to reapply if necessary.

**Conclusion**

The tenant is partly successful in the application. Most issues are satisfactorily resolved and a monetary order is granted as a one-time rent abatement.

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 04, 2013

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Residential Tenancy Branch

