



# Dispute Resolution Services

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Residential Tenancy Branch  
Office of Housing and Construction Standards

## **DECISION**

### **Dispute Codes**

MNR

### **Introduction**

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for a monetary order for compensation for the cost of emergency repairs the tenant already made, pursuant to section 67 of the *Act*.

While the tenant attended the hearing by way of conference call, the landlord did not. I waited until 2:13 p.m. to enable the landlord to participate in this scheduled hearing for 2:00 p.m. The tenant was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

Rule 7.3 of the Rules of Procedure provides as follows:

### **7.3 Consequences of not attending the hearing**

If a party or their agent fails to attend the hearing, the arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the application, with or without leave to re-apply.

The tenant provided sworn, undisputed testimony that her agent had personally served the landlord with the application for dispute resolution hearing package ("Application") and evidence on June 30, 2017. The agent testified in the hearing that he had served the landlord. In accordance with sections 88, 89, and 90 of the *Act*, I find that the landlord was duly served with the Application and evidence on June 30, 2017.

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

Is the tenant entitled to monetary compensation for emergency repairs?

### **Background and Evidence**

The tenant provided the following sworn, undisputed testimony as the landlord did not attend the hearing. This tenancy began on September 1, 2016, with monthly rent set at \$1,250.00. The landlord had collected a security deposit of \$1,000.00 from the tenant, and still continues to hold that deposit. The tenant moved out some time between February 19, 2017 and March 1, 2017, although the fixed-term tenancy was to end on June 1, 2017. The tenant did not include a copy of the tenancy agreement in her evidence.

The tenant testified that she had moved out early due to issues with the tenancy. The tenant is seeking compensation in the amount of \$366.77 for the cost of a plumber, who attended the rental property on February 9, 2017 to deal with an issue with the sump pump that had overflowed. The tenant submitted an invoice in her evidence dated February 9, 2017, which indicates that the amount was paid on May 16, 2017.

The tenant testified that she had made attempts to contact the landlord and the landlord's parents, but was unsuccessful. The tenant testified that on May 16, 2017 the plumber had charged her credit card, and despite contacting the landlord, the landlord has failed to reimburse her for the emergency repairs.

### **Analysis**

Section 33 of the *Act* outlines the following obligations of the landlord and the tenant regarding emergency repairs.

### **Emergency repairs**

**33** (1) In this section, "**emergency repairs**" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
  - (i) major leaks in pipes or the roof,
  - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
  - (iii) the primary heating system,
  - (iv) damaged or defective locks that give access to a rental unit,
  - (v) the electrical systems, or
  - (vi) in prescribed circumstances, a rental unit or residential property.

(2) The landlord must post and maintain in a conspicuous place on residential property, or give to a tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs.

(3) A tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

(4) A landlord may take over completion of an emergency repair at any time.

(5) A landlord must reimburse a tenant for amounts paid for emergency repairs if the tenant

- (a) claims reimbursement for those amounts from the landlord, and
- (b) gives the landlord a written account of the emergency repairs accompanied by a receipt for each amount claimed.

(6) Subsection (5) does not apply to amounts claimed by a tenant for repairs about which the director, on application, finds that one or more of the following applies:

- (a) the tenant made the repairs before one or more of the conditions in subsection (3) were met;
- (b) the tenant has not provided the account and receipts for the repairs as required under subsection (5) (b);
- (c) the amounts represent more than a reasonable cost for the repairs;
- (d) the emergency repairs are for damage caused primarily by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(7) If a landlord does not reimburse a tenant as required under subsection (5), the tenant may deduct the amount from rent or otherwise recover the amount.

Section 65(1)(c) and (f) of the *Act* allow me to issue a monetary award to reduce past rent paid by a tenant to a landlord if I determine that there has been “a reduction in the value of a tenancy agreement.”

I have considered the written and oral submissions of the tenant, and I am satisfied that the tenant had complied with section 33 in her obligations as a tenant in this matter. I find that that an overflowing sump pump constitutes an emergency, and the tenant mitigated the situation the best she could by contacting a plumber after successive attempts to contact the landlord, and the landlord's alternative contacts.

The tenant provided the invoice to support the loss she incurred in undertaking these emergency repairs. I find that the landlord was made aware of the situation, and did not respond to the tenant after she made attempts to contact the landlord about the situation. The tenant's credit card was charged over 3 months later, and I find that she was reasonable in her monetary application, as this was the amount that she was charged for repairing the landlord's property, and I find that this matter was not due to any neglectful action of the tenant. On this basis I find that the tenant is entitled to \$366.77 in compensation for her losses.

### **Conclusion**

I issue a **\$366.77** Monetary Order in the tenant's favour in compensation for the emergency repair she undertook during this tenancy.

The tenant is provided with this Order in the above terms and the landlord(s) must be served with a copy of this Order as soon as possible. Should the landlord(s) fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

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: January 10, 2018

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Residential Tenancy Branch