



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, FF

Introduction

This hearing dealt with the tenants' Application for Dispute Resolution seeking an order to have the landlord complete emergency repairs and a monetary order.

The hearing was conducted via teleconference and was attended by the female tenant and three representatives for the landlord.

At the outset of the hearing, I clarified with the parties who should be named as the landlord and respondent in this dispute and with agreement by both parties I have amended the Application to name only one respondent as noted above.

Issue(s) to be Decided

The issues to be decided are whether the tenants are entitled to an order requiring the landlord to complete emergency repairs; to a reduction in rent; and to a monetary order for reimbursement of costs related to the emergency repairs and to recover the filing fee from the landlord for the cost of the Application for Dispute Resolution, pursuant to Sections 32, 33, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant testified the tenancy began in September 2010 as 1 year fixed term tenancy that was extended to another 1 year for a current monthly rent of \$1,884.00 due on the 1st of each month with a security deposit of \$900.00 and a pet damage deposit of \$900.00 paid.

The parties agree that there was a breach in the water system on the residential property on March 26, 2012 and that as a result the tenants have been having unresolved water problems ever since, including increased turbidity that has not yet been resolved.

The landlords testified there are 4 distinct residential properties serviced by the well in question and that the other 3 properties well tests show all issues are resolved. The landlord testified that they received some test results within the last few days and has not been able to provide them to this hearing.

The landlords testified they have been working with a local company and that they have recently installed an above ground pipe to try to isolate where the problem is and until that has been running for awhile the company cannot determine what the next steps will be.

The landlords testified they have been working with the local health authority and they have asked for a mineral test that has not yet been completed. The tenant testified she had discussed the issue with the health authority who has told her that they want the landlord to complete a chemical analysis.

The tenant has submitted into evidence a substantial volume of email correspondence in which she repeatedly asks the landlord to provide copies of test results for e.coli or coliform counts. The only test results submitted into evidence were provided by the tenant for tests completed on May 15, 2012 that the tenants commissioned the same local company who the landlords indicated was doing the repair work.

This report indicates the total coliform bacteria count (TC) was 2 cfu/100 ml and the non- coliform bacteria count (NC) was 518 cfu/100ml. The report goes on to say that TC counts in excess of 0 cfu/100 ml are not suitable for drinking and NC counts in excess of 200 cfu/100 ml treatment is strongly recommended.

No other test results were submitted into evidence and no correspondence or documentation on the requirements for water supply from the local health authority was provided or submitted into evidence.

The landlord has offered to provide and have delivered bottled water to the tenants until such time as the problems are resolved. The tenant has accepted this offer and the landlord noted he would arrange for a delivery on the day of this hearing.

The tenants seek a refund of the costs associated with the testing that was completed on May 15, 2012 that they had arranged in the amount of \$196.00; the provision of safe, potable water by July 20, 2012; determination of the source of sediment/turbidity; installation of backflow prevention valves; results of chemical analysis tests; a plan for professional and independent oversight of the repair, maintenance and monitoring of the system by a professional engineer; and independent monitoring, maintenance and reporting of the water system (including monthly coliform testing).

Analysis

Section 32 of the *Act* requires a landlord to 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 for the age, character and location of the rental unit make it suitable for occupation by a tenant.

Section 33 of the *Act* allows a tenant to have emergency repairs completed if the emergency repairs are needed; the tenant has made at least 2 attempts to phone the

landlord or their agent and following those attempts the tenant has given the landlord reasonable time to make the repairs.

The section includes defining emergency repairs as: urgent; necessary for the health or safety of anyone or for the preservation or use of the residential property, and are made for the purpose of repairing major leaks in pipes or the roof; damaged or blocked water or sewer pipes or plumbing fixtures; the primary heating system; damaged or defective locks that give access to a rental unit; or the electrical systems.

I accept that both parties acknowledge there remains a problem with the water supply provided to this rental unit. While I accept that the landlord has taken action since the initial breach in the water system, in the absence of any evidence at all from the landlord it is difficult for me to determine what steps the landlord has completed and by whom; what testing has been completed and what requirements are in place through the local health authority.

Further, despite the tenant's repeated requests for the landlord to provide results of tests that the landlord has been relying on to make statements in her emails that everything was fine the landlord has not provided any results to the tenants. As the landlord has not provided these to the tenants or to this hearing I find no documented reasons why the landlord cannot meet the tenant's suggested timelines for repairs.

As such, I make the following orders:

1. The landlord must have repairs completed to the water system by a service provider qualified to make such repairs no later than July 20, 2012. The tenants remain at liberty to seek additional compensation should the landlord fail to complete the repairs by this time;
2. The tenants may reduce their monthly rental by \$200.00 until the required repairs are completed and such time as the landlord obtains an order from a Dispute Resolution Officer confirming the repairs are complete and the landlord can reinstate the full rent amount;
3. The landlord must provide to the tenant confirmation from the local health authority that the well and water supply to the rental unit meets all local health authority requirements, including confirmation of acceptable levels of any and all substances in a water supply;
4. The landlord must have coliform tests completed and provide the results to the tenants once the repairs are made, confirming the water supply is meeting health authority standards; and
5. The landlords continue to provide the tenant with bottled water until the landlord has established the water supply that meets the health authority standards.

In regard to the tenants' request to install backflow prevention valves I note that the tenants have not provided any evidence to support the need for this installation, as such I dismiss this portion of the tenant's Application.

Further, I find the tenant should not be held responsible, financially, for testing the safety of the well water supply, especially considering the number of times the tenants unsuccessfully requested results from the landlord of the testing they had completed and therefore the tenant must be compensated for the tests completed on May 15, 2012 in the amount of \$196.00.

Conclusion

Based on the above, I find the tenants are entitled to monetary compensation pursuant to Section 67 in the amount of **\$246.00** comprised of \$196.00 rent owed and the \$50.00 fee paid by the tenants for this application.

I order the tenants may deduct this amount from their next rent payment in satisfaction of this claim, in accordance with Section 72(2)(a).

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: June 20, 2012.

Residential Tenancy Branch