



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, RR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an order to the landlord to make repairs and emergency repairs to the rental unit pursuant to section 33; and
- an order to allow the tenant(s) to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65.

Both parties attended the hearing and were given a full opportunity to be heard, to present their sworn testimony, to make submissions and to cross-examine one another. The landlord testified that he received the tenant's dispute resolution hearing package. I am satisfied that the tenant served the landlord with her dispute resolution hearing package.

At the commencement of the hearing, the tenant confirmed the landlord's sworn testimony that he completed the repairs requested in the tenant's application by March 23, 2013. Since all of the repairs requested by the tenant had been completed by the time of this hearing, the tenant testified that she did not wish to continue with that portion of her application for dispute resolution. The tenant's application for repairs and emergency repairs is withdrawn.

Issues(s) to be Decided

Is the tenant entitled to reduce her rent on the basis that the landlord did not conduct repairs in a timely fashion and did not provide the tenant with the services or facilities agreed upon at the commencement of this tenancy?

Background and Evidence

This periodic tenancy commenced on June 20, 2012. Monthly rent is set at \$650.00, payable in advance on the first of each month. The landlord continues to hold the tenant's \$125.00 security deposit.

The parties agreed that the landlord handed the tenant a 10 Day Notice to End Tenancy for Unpaid Rent (the 10 Day Notice) on March 11, 2013, shortly after the tenant placed a copy of her dispute resolution hearing package in the landlord's mail slot on March 7, 2013. The landlord testified that the tenant paid all of her March 2013 rent in full on March 15, 2013, within the five day period set out in his 10 Day Notice. At the hearing, the tenant advised the landlord that he could pick up her April 2013 rent cheque whenever he liked, as she had this payment available for him.

Although the tenant's application for dispute resolution did not identify a requested amount of rent reduction, I am satisfied that the landlord understood that the tenant was seeking a rent reduction for the landlord's delay in repairing a number of items in her rental unit. I also note that the tenant's written evidence received by the landlord noted that the tenant intended to request a reduction of \$325.00 per month until the repairs had been completed.

The tenant gave undisputed sworn testimony and written evidence that the landlord gave her a bucket on January 20, 2013, to place on her kitchen counter to catch water leaking from her ceiling. The landlord did not dispute the tenant's testimony that this bucket remained on her counter for a 2-3 month period before the landlord repaired the ceiling to the extent where the bucket was no longer needed. The tenant's witness who also lives with her at this rental unit also testified that the ceiling was not repaired for 2-3 months, requiring the bucket to be placed on the kitchen counter to catch leaks from the unrepaired ceiling. The tenant provided undisputed photographic evidence to confirm the state of disrepair of the ceiling in the kitchen, the presence of mould caused by the leakage, a doorknob on the exterior door of the rental unit that could not be secured properly and screws on the windows of the rental unit, limiting the effectiveness of those windows.

The landlord testified that he had done everything he could to repair the door himself and maintained that the initial damage to the exterior door resulted from it being kicked in by either the tenant or the witness, whom he maintained was living in the rental unit in contravention of the tenant's residential tenancy agreement. He testified that the tenant first advised him of the problem with the door in November 2012. He said that he eventually had to hire a carpenter to repair what had been a new door lock on or about March 7, 2013.

Analysis

Section 32 of the *Act* places a responsibility on a landlord to maintain residential property in a state of decoration and repair that:

(a) complies with the health, safety and housing standards required by law, and

(b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

Section 65(1) of the *Act* contains the following provisions which enable me to issue an order requiring a tenant to reduce a tenant's rent if I am satisfied that a tenant has demonstrated that a landlord has not provided the services and facilities expected when the tenancy was established:

65 *(1) Without limiting the general authority in section 62 (3) [director's authority respecting dispute resolution proceedings], if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders:...*

(c) that any money paid by a tenant to a landlord must be...

(ii) deducted from rent,...

(f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;...

Based on the essentially undisputed oral, written and photographic evidence submitted by the tenant and her witness, I am satisfied that the landlord did not attend to the tenant's requests for repairs in a timely fashion. While the items requiring repairs have now been fixed by the landlord, I find merit to the tenant's assertion that she should not have had to apply for dispute resolution to obtain these repairs. Items such as an unsecured outside door to the rental unit, which prevented the tenant or her co-habitant from leaving the rental unit unattended and an ongoing leak onto the kitchen counter are fairly major issues that needed to be dealt with in a far more timely fashion than occurred.

I am satisfied that the tenant has demonstrated that the landlord should have attended to these matters by at least January 1, 2013. As this did not occur in a timely fashion, I find that the tenant is entitled to a retroactive reduction in rent of \$150.00 for each month while these repairs were not completed from January 1, 2013 until March 23, 2013. This results in a reduction in rent of \$150.00 for each of January 2013 and February 2013. On a pro-rated basis, I allow a rent reduction of \$75.00 for March 2013,

as some of the work was completed by March 7, 2013 and the remainder was finished by March 23, 2013.

Conclusion

I find that the tenant is entitled to a retroactive rent reduction of \$375.00 for the loss in value to her tenancy agreement as a result of the landlord's failure to repair the rental unit as requested. This amount allows the tenant a monetary award of \$150.00 for each of January 2013 and February 2013, and \$75.00 for March 2013.

To implement this decision, I order the tenant to reduce her next scheduled monthly rent (i.e., May 2013) by \$375.00 to reflect this monetary award. Based on a monthly rent of \$650.00, her next monthly rent payment is \$275.00. Once the tenant has reduced her next monthly rent by \$375.00 for one month only, her rent reverts to the amount specified in her tenancy agreement as of the first of the subsequent month.

The tenant's application for repairs and emergency repairs is withdrawn.

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: April 02, 2013

Residential Tenancy Branch