



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

OLC, ERP, O

Introduction:

This hearing was convened in response to an Application for Dispute Resolution, in which the Tenant applied for an order requiring the Landlord to comply with the *Residential Tenancy Act (Act)*, the *Regulation*, or the tenancy agreement; for an order requiring the Landlord to make emergency repairs; and for “other”.

The Tenant stated that on March 22, 2014 the Application for Dispute Resolution, the Notice of Hearing, and evidence the Tenant wishes to rely upon as evidence were sent to each Landlord at the service address noted on the Application for Dispute Resolution, via registered mail. The Tenant cited two Canada Post tracking numbers that corroborates this statement. In the absence of evidence to the contrary, I find that these documents have been served in accordance with section 89 of the *Residential Tenancy Act (Act)*; however neither Landlord appeared at the hearing.

Issue(s) to be Decided:

Is there a need to issue an order requiring the Landlord to make repairs to the rental unit and/or to comply with the *Act*, the *Regulation*, or the tenancy agreement?

Background and Evidence:

The Tenant stated that this tenancy began on February 01, 2013 and that she moved into the rental unit later that month.

The Tenant stated that when she moved into the rental unit neither of the two toilets in the unit functioned properly. She stated that every time the toilet is used the toilet will not flush properly unless a plunger is used.

The Tenant stated that she reported the problem to the Landlord, via telephone, approximately one month after she moved into the unit. She stated that she reported the problem, via email, on August 14, 2013, August 28, 2013, October 11, 2013, October 22, 2013, November 11, 2013, and February 19, 2014.

The Tenant stated that the Landlord did not respond to her reports until February 27, 2014, at which time the Landlord had a plumber attend the rental unit. She stated that the plumber “snaked” both toilets, which resolved the problem for a short period of time. She stated that within 4 or 5 days both toilets were not functioning properly.

The Tenant stated that when the toilets malfunctioned in March of 2014 she again reported the problem to the Landlord, but nothing has been done to repair the toilets since February 27, 2014.

The Tenant stated that she has discussed this plumbing problem with the strata corporation and has been advised that other occupants of the residential complex have had to replace the toilets in their homes and that there is a drainage problem in the complex. She stated that the plumber who repaired the toilets on February 27, 2014 also told her that the toilets needed to be replaced and that there was a drainage problem that needed to be repaired.

Analysis:

Section 32(1) of the *Act* requires landlords to provide and maintain residential property in a state of decoration and repair that complies with health, safety, and housing standards required by law and, having regard to the age, character, and location of the rental unit, makes it suitable for occupation by a tenant.

On the basis of the undisputed evidence I find that the Landlord has failed to comply with section 32(1) of the *Act*, by failing to ensure that the toilets in the rental unit function properly. Although the Tenant submitted no evidence of health, safety, and housing standards, I find it logical to conclude that those standards require a rental unit to be equipped with a toilet that flushes properly. In any event, I find that a toilet that flushes properly is required to make a unit suitable for occupation.

I therefore order the Landlord to have both toilets in the unit inspected by a qualified plumber as soon as is practicable, and in any case no later than May 15, 2014. I also Order the Landlord to make whatever repairs the plumber deems necessary to render both toilets fully functional as soon as is practicable, and in any case no later than May 31, 2014.

Conclusion:

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 23, 2014

Residential Tenancy Branch