



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Concorde House
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for emergency repairs to the unit - Section 32; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matter

The Tenant’s Advocate states that the application was amended to seek compensation. The Advocate acknowledges that no form was completed for the amendment and that there was only a written submission for compensation contained within an evidence package.

Rule 4.1 of the Residential Tenancy Branch (the “RTB”) Rules of Procedure (the “Rules”) provides that an applicant may amend a claim by completing an Amendment to an Application for Dispute Resolution form and filing the form at the RTB or a Service BC office. Rule 4.2 provides that in circumstances that can be reasonably anticipated, such as when the amount of rent owing has increased since the time the original application was made, the application may be amended at the hearing. As the Tenant did not complete the required amendment form and as there is no reasonable

anticipation of a claim for compensation being made in relation to an original application for repairs, I find that the original application was not amended in accordance with the Rules and that the application may not be amended at the hearing. As a result the Tenant is restricted to the claims in the original application.

Issue(s) to be Decided

Is the Tenant entitled to an order for emergency repairs?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy started on November 15, 2013. As of November 1, 2017 rent of \$791.00 is payable on the first day of each month. Previously monthly rent was \$763.00. On August 16, 2017 a fire broke out in a nearby unit and the fire department broke the Tenant's unit door for the purposes of gaining access the unit that was on fire.

The Tenant submits that since that date the Tenant had no security for her unit. The Tenant states that just last week the Landlord replaced the damaged door and door frame with a new door and frame and a working deadbolt. The Tenant states that the lower lock has not been replaced and that there is a one inch gap between the door frame and adjoining wall. The Tenant states that the inside of her unit can be seen through this gap.

The Landlord states that the gap is very small and less than the one inch described by the Tenant. The Landlord agrees to have the lower lock replaced by 5:00 p.m. on Friday November 24, 2017 and agrees to seal the gap by Wednesday November 29, 2017. The Tenant indicates that this is satisfactory as long as the Landlord lives up to his promise.

Analysis

Section 32(1) of the Act provides that a landlord must provide and 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 33 of the Act defines emergency repairs as including damaged or defective locks that give access to a rental unit. Based on the undisputed evidence that the Tenant's door was not secure following the fire in mid-August 2017 and considering that repairs to the door were not made until the week of November 13 to 17, 2017 I find that the Landlord was negligent in its obligation to maintain the unit suitable for occupation and by failing to make emergency repairs in a timely manner. While the Tenant is satisfied with the replacement of the door and the promise to make the final repairs, given the Landlord's negligence to date, I accept that the Landlord may not act as promised. As a result I order that the Landlord make repairs as follows:

- Replace lower door lock by no later than 5:00 p.m. on Friday November 24, 2017; and
- Close gap between door and wall by no later than Wednesday November 29, 2017.

Should the Landlord fail to act as ordered the Tenant has leave to reapply for compensation from August 16, 2017, the date of the loss of the door security. As I have already determined negligence and liability, it will only be a matter of the amount of compensation that will be left for determination should the Landlord fail to act as ordered.

As the Tenant's application has been successful I find that the Tenant is entitled to recovery of the **\$100.00** filing fee and the Tenant may deduct this amount from future rent payable in full satisfaction of the claim.

Conclusion

The Landlord is ordered to make repairs to the door as set out above.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims 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: November 22, 2017

Residential Tenancy Branch