



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order that the landlord make emergency repairs for health or safety reasons.

The tenant attended the hearing and gave affirmed testimony, however, the line remained open while the phone system was monitored for 10 minutes prior to hearing any testimony, and no one for the landlord joined the call. The tenant testified that the landlord was served with the hearing package, including notice of this hearing, by registered mail on December 14, 2017 at the address of the landlord provided on the tenancy agreement and has provided a copy of a Canada Post cash register receipt and Registered Domestic Customer Receipt as evidence. The package was returned to the tenant unserved. The tenant attempted to reach the landlord by email to obtain information about how to serve the documentation, but the landlord has not responded. Since rent is paid each month by email transfer, and January's rent has been accepted, the tenant believes the landlord has received the emails.

The *Residential Tenancy Act* allows for service of a hearing package by registered mail, and states that documents served in that manner are deemed to have been served 5 days after mailing. I have compared the address of the landlord on the tenancy agreement and the Registered Domestic Customer Receipt from Canada Post, and I am satisfied that the landlord has been served in accordance with the *Residential Tenancy Act*.

Issue(s) to be Decided

Should the landlord be ordered to make emergency repairs to the rental unit for health or safety reasons?

Background and Evidence

The tenant testified that this fixed-term tenancy began on June 1, 2017 and reverts to a month-to-month tenancy after May 31, 2018, and the tenant still resides in the rental unit. Rent in the amount of \$1,000.00 per month is payable on the 1st day of each month and there are no rental arrears. At the outset of the tenancy the landlord collected a security deposit from the tenant in the amount of \$500.00 which is still held in trust by the landlord, and no pet damage deposit was collected. No move-in condition inspection report was completed at the beginning of the tenancy. The rental unit is a bachelor suite apartment on the top floor of an apartment complex, however there is a penthouse suite partially above the rental unit. A copy of the tenancy agreement has been provided as evidence for this hearing.

The tenant further testified that on or about September 25, 2017 the tenant heard dripping water while in bed, and got up to investigate, finding a pouch in the ceiling over the kitchen sink. The tenant put a bowl under it to catch water and found about a cup full in the morning from the pouch. The tenant notified the landlord, who said he'd get a roofer, but no roofer contacted the tenant and the leak continued. On October 21, 2017 the tenant sent a text message to the landlord, a copy of which has been provided as evidence for this hearing. The landlord replied that he and the roofer were dealing with it.

A roofer arrived to take measurements, and the landlord told the tenant that the leak was in the corner of the penthouse above and that the roofer had patched it. The tenant went out of town for a few days in November and had a friend stop by, who noticed a leak starting again and told the tenant that a chunk of the ceiling had fallen. The tenant tried to get ahold of the landlord again and sent the landlord photographs. The landlord replied that he would forward the photographs to the roofer. Photographs have also been provided as evidence for this hearing, which the tenant testified were taken on November 16, 2017. The tenant testified that it smells like mold and the kitchen smells horrible. The landlord will not respond anymore, and water collects inside the cabinets as well. No repairs have been made since, and water continues to drip in through that hole. The tenant is concerned of mold build-up that may be detrimental to her health.

Analysis

The *Residential Tenancy Act* requires a landlord to provide and maintain rental premises in a state that makes it suitable for occupancy by a tenant, even if the tenant knew of such a breach at the beginning of the tenancy:

- 32** (1) 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.

I have reviewed the photographs provided by the tenant, and I am not satisfied that the landlord has taken the issue seriously or is doing anything about it, thereby contravening Section 32. I also note that the tenancy agreement provides that the landlord is required to provide suitable accommodation and make repairs.

I order the landlord to make the necessary repairs to the roof and to the ceiling inside the rental unit by February 15, 2018. If the landlord fails to do so, the tenant will be at liberty to apply for monetary compensation for the devaluation of the tenancy and for the landlord's breach of the tenancy agreement and the *Residential Tenancy Act*.

Conclusion

For the reasons set out above, I hereby order the landlord to make the necessary repairs to the roof and to the ceiling inside the rental unit to stop the leak and any mold accumulation by February 15, 2018. If the landlord fails to do so the tenant will be at liberty to apply for monetary compensation for the landlord's failure to comply with the *Act*, the tenancy agreement and this order.

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 09, 2018

Residential Tenancy Branch