



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, FFT

Introduction

The teleconference hearing was scheduled in response to an application by the Tenant under the *Residential Tenancy Act* (the *Act*). The Tenant applied for an order for emergency repairs as well as to recover the cost of the filing fee for this application.

A representative for the tenant, who also lives in the rental unit, was present at the teleconference hearing (the “Tenant”). One of the landlords called into the hearing as well as a representative for the landlord (the “Landlord”). All parties were affirmed to be truthful in their testimony and both parties submitted evidentiary material to the Residential Tenancy Branch prior to the hearing.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue to be Decided

Should an order be issued for the Landlord to make emergency repairs in the rental unit?

Background and Evidence

The tenancy began on April 15, 2012 and monthly rent is currently \$900.00. A security deposit in the amount of \$450.00 and a pet damage deposit in the amount of \$200.00 was paid to the Landlord in 2012.

The Tenant testified that on February 20, 2018, water damage occurred due to a problem with the hot water tank in the storage room that is located in the hallway of the

rental unit. The water from the hot water tank got under the flooring, causing the floors to buckle in some areas of the rental unit. The Tenant submitted that within a couple days, the floors that had the damage were removed and the occupants of the unit lived with the concrete floors until the flooring was replaced in April 2018. The Tenant testified that the flooring in the bathroom was replaced the day before the hearing and now they are waiting for baseboards and connectors between rooms to be completed.

Due to the water damage and the replacement of the floors, the tenants were required to move some of their belongings around to allow for the construction. As they were doing so, they noticed mould in the master bedroom closets and messaged the Landlord right away, on March 24, 2018. By March 28, 2018, they had not yet had a response from the Landlord, so messaged her again and received a response that she was busy, but would look into the issue with the mould soon.

On April 3, 2018, the flooring company was in the unit and said that since the mould was not caused by the water damage, fixing it would not be covered under the claim for water damage and would instead have to be dealt with separately. On April 15, 2018, a contractor cleaned the mould from the closets and on April 16, 2018, the areas of mould were cut from the drywall in the closets and repaired.

Although the noticeable mould in the master bedroom closets has been resolved, the Tenant submitted that they have noticed a musty smell in the rental unit, particularly in the kitchen, and have also noticed mould in the toilet tank and fixtures of the toilet. The Tenant is worried about the health and safety concerns of living in a unit with potential mould issues and would like an air quality inspection completed so they know whether or not they should be concerned.

The Tenant testified that they are upset with the length of time it took to resolve the flooring replacement as well as to deal with the mould. As they were aware of the mould on March 24, 2018 and it was not fixed until April 16, 2018, they do not feel they should have had to pay rent during that time. They had a recent conversation with the Landlord about withholding rent for the month of May 2018, but since there was no resolution from that conversation, they have paid rent for May 2018.

The Landlord testified that she understands the concern with the delay for completion of the floor replacement and mould and that she has apologized for this. She was dealing with a personal issue at the time which caused some delays. The flooring replacement was dealt with through an insurance claim that was separate from the repairs for mould.

The Landlord submitted that she had feedback from the contractor that the mould was caused by not having enough airflow in the closets and while she understands that the tenant's belongings were moved around to allow for the floor replacements, she believes they have a lot of belongings in the rental unit and that the airflow issues that caused the mould may be related to the amount of belongings in the rental unit.

The Landlord is concerned that mould will occur within the unit again, but is in agreement that having the air quality tested will allow for a baseline to be established and then all parties can take joint responsibility for keeping mould away.

The Landlord also submitted that she rented the unit to one tenant only and was not aware of the additional occupants until after they moved in. She believes that the additional occupants have contributed to the airflow problems in the master bedroom closets that resulted in mould growth, due to the extra belongings that are now in the rental unit.

The parties were provided an opportunity to have a settlement discussion during the hearing as per Section 63 of the *Act* and they came to the following settlement agreement:

1. The Landlord agrees to contact a company that completes air quality assessments for the presence of moisture and mould;
2. The Landlord agrees that they are responsible for the cost of this inspection; and
3. The Landlord agrees that the company will be contacted and an appointment will be scheduled for an air quality assessment of the rental unit by June 1, 2018.

Analysis

Pursuant to Section 63 of the *Act*, a settlement agreement may be reached during the hearing and recorded in the form of a decision or order. As per the above, the parties agree that the Landlord will arrange an air quality assessment in the rental unit by June 1, 2018. The parties are in agreement that the cost of this assessment will be the Landlord's responsibility.

The request for an emergency repair order was filed prior to the completion of the repairs regarding the flooring and the mould. As the mould in the closets has since been repaired, and the replacement of the floors is nearing completion, I find that there are no outstanding repair orders required.

During the hearing, the Tenant spoke about their request for monetary compensation for the period of time they were living with mould in the rental unit which was from March 24, 2018 until April 16, 2018. However, in reviewing the file after the hearing, it is evident that the Tenant's application for Dispute Resolution did not include a claim for compensation under the *Act*. As such, I find that it would prejudice the respondent to proceed with a monetary claim without the appropriate time to notify them and for the sharing of evidence between the parties regarding a specific monetary claim. This Decision will only reference the claims applied for on the Dispute Resolution application. Therefore, no decision on monetary compensation has been made.

As a mutual settlement agreement was reached during the hearing, I find that each party is responsible for half of the cost to file this application. As such, the Tenant is entitled to the recovery of \$50.00 from the Landlord; half of the \$100.00 fee paid for the Dispute Resolution Application.

Conclusion

I **order** the parties to **comply** with the settlement decision as outlined above.

I **order** that the Tenant may deduct \$50.00 from their next monthly rent payment in full satisfaction of the recovery of half of the filing fee.

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: May 08, 2018

Residential Tenancy Branch