



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, LAT, LRE, OLC, RR

Introduction

This hearing dealt with an Application for Dispute Resolution (the “Application”) that was filed by the Tenant under the *Residential Tenancy Act* (the “Act”), seeking an order for the Landlord to complete emergency repairs and to comply with the Act, regulation or tenancy agreement, a rent reduction, authorization to change the locks, and an order restricting or setting conditions on the Landlords right to enter the rental unit.

The hearing was convened by telephone conference call and was attended by the Landlord and the Tenant, both of whom provided affirmed testimony. The parties were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Neither party raised any concerns regarding the service of documentary evidence.

I have reviewed all evidence and testimony before me that was accepted for consideration in this matter in accordance with the Residential Tenancy Branch Rules of Procedure (the “Rules of Procedure”); however, I refer only to the relevant facts and issues in this decision.

At the request of the Tenant, copies of the decision and any orders issued in their favor will be e-mailed to them at the e-mail address provided in the hearing. At the request of the Landlord, copies of the decision and any orders issued in their favor will be mailed to them at the address provided in the hearing.

Preliminary Matters

Preliminary Matter #1

Although the parties engaged in settlement discussions during the hearing, ultimately a settlement agreement could not be reached between them. As a result, I proceeded with the hearing and rendered a decision in relation to this matter under the authority

delegated to me by the Director of the Residential Tenancy Branch (the “Branch”) under Section 9.1(1) of the *Act*.

Preliminary Matter #2

In their Application the Applicant sought multiple remedies under multiple sections of the *Act*, a number of which were unrelated to one another. Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

As the Tenant sought an order for the Landlord to comply with the *Act*, the regulation or the tenancy agreement and to complete emergency repairs as well as a rent reduction for repairs, services or facilities agreed upon but not provided, I find that the priority claims relate to emergency repairs and rent. I find that the other claims are not sufficiently related to rent or emergency repairs, and as a result I therefore exercise my discretion to dismiss the Tenant’s claims for authorization to change the locks and an order restricting or setting conditions on the Landlord’s right to enter the rental unit with leave to reapply.

Based on the above the hearing proceeded based only on the issue of emergency repairs and a related rent reduction.

Issue(s) to be Decided

Is the Tenant entitled to an order for the landlord to complete emergency repairs?

Is the Tenant entitled to a rent reduction?

Background and Evidence

Although the Landlord initially denied that a tenancy was in place and the parties acknowledged that there is no written tenancy agreement, ultimately they agreed that a verbal tenancy agreement was entered into at the end of April 2018 for the Tenant to rent the one bedroom, one bathroom apartment effective May 1, 2018, at a cost of \$900.00 per month. The parties agreed that the tenancy is month-to-month, that rent is due on the first day of each month and that no security deposit was paid.

The Tenant testified that when he moved into the rental unit there was no sink or vanity in the only bathroom and that he has been unable to use the shower or bathtub during the entire course of the tenancy as it is not properly sealed and leaks into other areas of the apartment building. The Landlord acknowledged that the sink and vanity were removed in April due to a flood and that the bathtub leaks, therefore making it unusable. When asked, the Landlord acknowledged that she first became aware of the leaking bathtub in 2003 shortly after purchasing the apartment and that she knew at the time the tenancy agreement was entered into that it still leaked.

Although the parties disagreed about whether or not the repairs to the tub and the provision of a working sink in the bathroom were ever discussed and agreed upon, ultimately the Landlord acknowledged that these repairs need to be completed and that she was aware of the issues prior to the commencement of the tenancy.

As a result of the above, the Tenant therefore sought an order for the Landlord to complete emergency repairs to the rental unit by way of installing a working sink in the bathroom and repairing the tub so that it may be used. Further to this, the Tenant testified that he is required to pay for daily shower usage at a nearby recreational facility at a cost of \$3.50 per day and therefore sought a rent reduction in the amount of \$3.50 per day beginning at the start of the tenancy and continuing until the necessary repairs to the bathroom are completed.

Analysis

Section 32 of the *Act* states that a landlord must provide and maintain the residential property in a state of decoration and repair that complies with the 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.

Section 33 of the *Act* states that "emergency repairs" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
 - (i) major leaks in pipes or the roof,
 - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
 - (iii) the primary heating system,

- (iv) damaged or defective locks that give access to a rental unit,
- (v) the electrical systems, or
- (vi) in prescribed circumstances, a rental unit or residential property.

I find that the provision of a working and useable sink, toilet, and either a bathtub or a shower in the bathroom, are necessary components of making a rental unit suitable for occupation by a tenant. Further to this, I find these facilities necessary in order to comply with basic health standards. As both parties agree that there is only one bathroom in the rental unit which does not contain a sink and has no useable bathtub or shower, I therefore find that the Landlord is in breach of section 32 of the *Act*. I also find that the repairs meet the definition of emergency repairs as they are urgent, necessary for the health or safety of the Tenant, and made for the purpose of repairing damaged water pipes or plumbing fixtures.

I order that the Landlord provide the Tenant with a working and useable sink and either a bathtub or a shower in the bathroom of the rental unit as soon as possible, and in any event, not later than July 31, 2018. I order that the bathroom components be installed by a qualified tradesperson in good standing in the community.

Further to this, I find that the loss of use of the bathroom shower or tub and sink amounts to a reduction in the overall value of the tenancy. Given the considerable amount of time that the Tenant has lived without these necessary facilities, and pursuant to section 65 of the *Act*, the Tenant is therefore entitled to a daily rent reduction of \$3.50 starting on May 1, 2018. As of the date of this decision, July 4, 2018, the Tenant is therefore entitled to a Monetary Order in the amount of \$227.50 for the loss of use of his bathroom. In addition, I order that this rent reduction continue at the daily rate of \$3.50 until the required repairs or installations are complete. The Tenant is entitled to deduct any amounts not covered by the above noted Monetary Order from future rent payments.

If the parties cannot reach an agreement regarding the date upon which the repairs are considered to have been completed and the subsequent amount of compensation owed to the Tenant, the parties may make further applications seeking resolution.

Conclusion

I order that the Landlord comply with the *Act* and make emergency repairs to the rental unit by providing the Tenant with a working and useable sink and either a bathtub or shower in the bathroom of the rental unit as soon as possible, and in any event, not later than July 31, 2018.

Pursuant to section 67 of the *Act*, I grant the Tenant a Monetary Order in the amount of \$227.50. The Tenant is provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court. In lieu of enforcing this Monetary Order, the Tenant is also entitled to deduct this amount from the next month's rent, should they choose to do so.

In addition to the above, I also grant the Tenant a daily rent reduction in the amount of \$3.50 starting July 5, 2018, and continuing until the repairs are complete. The Tenant is entitled to deduct this amount from future rent or otherwise recover this amount from the Landlord.

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: July 4, 2018

Residential Tenancy Branch