



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, PSF, RR, FFT

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for an order for the landlords to make emergency repairs for health or safety reasons, for regular repairs to the unit, site or property, for a rent reduction, for an order for the landlords to provide services or facilities agreed upon but not provided, and to recover the cost of the filing fee.

The tenant and landlord SJ ("landlord") appeared at the teleconference hearing and provided affirmed testimony. The hearing process was explained to both parties and an opportunity to ask questions was provided during the hearing. During the hearing the parties were given the opportunity to provide their evidence. A summary of the evidence is provided below and includes only that which is relevant to the hearing.

The landlord confirmed that they had received and had the opportunity to review the tenant's documentary evidence. The landlord admitted that they did not serve the tenant with their documentary evidence and as a result, the landlords' documentary evidence was excluded from the hearing as it was not served in accordance with the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules").

Preliminary and Procedural Matters

Rule 2.3 of the Rules authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on the application, the most urgent of which is the application for emergency repairs for health or safety reasons, the filing fee and the rent reduction which became apparent during the hearing. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request

for emergency repairs for health or safety reasons, the filing fee and the rent reduction at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

In addition, the parties confirmed their email addresses at the outset of the hearing. The parties confirmed their understanding that the decision would be email to both parties at the email addresses confirmed during the hearing.

Issues to be Decided

- Should the landlords be directed to make repairs to the rental unit for health or safety reasons?
- Is the tenant entitled to a rent reduction under the *Act*?
- Is the tenant entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

A copy of the tenancy agreement was submitted in evidence. A month to month tenancy began on July 1, 2017. Monthly rent of \$850.00 is due on the first day of each month.

The tenant submitted three letters addressed to the landlords requesting repairs for health and/or safety reasons. The landlord did not deny receiving the letters. The tenant submitted a colour photo of a shower stall and surrounding wall area, which the tenant described supports that there is an ongoing water leak behind the walls and that black mould has formed and that the landlords have refused to address these problems even after repeated requests. The tenant also testified that rats have infested the rental unit and a colour photo was submitted, which supports a hole in the flooring caused by a rat infestation in the rental unit. The tenant stated that there are rat feces throughout the rental unit and that urgent repair is necessary.

The landlord testified that her daughter MKJ, the other landlord, received a November 11, 2018, email about the black mould and admitted that the landlords have not attended the rental unit to address the tenant's complaints since November 11, 2018.

The landlord did not deny that there were rats in the rental unit during the hearing and provided no evidence to support that a pest control company has been brought in to address the rat infestation problem in the rental unit.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Section 32 of the *Act* applies and states:

Landlord and tenant obligations to repair and maintain

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.**

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

[My emphasis added]

I consider the photo evidence to support that the landlords have failed to properly maintain the rental unit and have not addressed a water leak in the rental unit causing black mould, which is clearly shown in the photo evidence. Therefore, I find the landlords have breached section 32 of the *Act*.

In addition, I find that urgent repairs for health and safety reasons are required and as a result I made the following orders:

1. **I ORDER** the landlords to arrange and pay for at their expense a certified professional pest control technician to attend the rental unit to inspect and treat for rats and other rodents no later than **December 18, 2018**.
2. **I ORDER** the landlords to arrange and pay for at their expense a certified professional plumber to attend the rental unit and repair any leaking water pipes in the rental unit by **December 18, 2018**.
3. **I ORDER** the landlords to arrange and pay for a certified professional repair person to repair any mould damage once the water leak damage and rat infestation damage have been repaired and treated respectively, by **December 27, 2018**.

As the tenant's application had merit, I grant the tenant the recovery of the filing fee in the amount of **\$100.00** pursuant to section 72 of the *Act*. I authorize the tenant to deduct \$100.00 from January 2019 rent in full satisfaction of the recovery of the cost of the filing fee.

Due to the landlords' breach of section 32 of the *Act*, I grant the tenant a 100% rent reduction resulting in rent being \$0.00 effective immediately until such time that the landlords make an application to the RTB for dispute resolution to reinstate the monthly rent. Such an application must include supporting evidence to support that all repairs and treatment described above have been fully completed to the satisfaction of the professionals hired at the landlords' expense. In other words, if the landlords fail to comply with my orders described above, the rent will remain at \$0.00 for the remainder of this tenancy and the tenant may also apply for additional monetary compensation under the *Act*, and includes additional repairs, if necessary.

I caution the landlord to comply with section 32 of the *Act* in the future and that failure to comply with my orders may also lead to a recommendation for an administrative penalty under the *Act* which carries a **maximum penalty of \$5,000.00 per day of non-compliance**.

Conclusion

The tenant's application is fully successful.

The landlords must comply with my 3 orders noted above. Failure to do so may lead to a recommendation for an administrative penalty against the landlords under the *Act*.

Rent has been reduced to \$0.00 effective immediately until such time that the landlords make an application under the *Act* to reinstate rent and have provided sufficient evidence to support that the landlords have complied with my orders and that an arbitrator should reinstate the rent.

I caution the landlords to comply with section 32 of the *Act* which they have clearly breached.

This decision is final and binding on the parties, unless otherwise provided under the Act, and 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: December 11, 2018

Residential Tenancy Branch