



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes ERP, FFT, LRE, RP, RR

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenants on November 23, 2018 (the “Application”). The Tenants applied as follows:

- For an order that the Landlord make emergency repairs;
- To suspend or set conditions on the Landlord's right to enter the rental unit;
- For an order that the Landlord make repairs;
- To reduce rent for repairs, services or facilities agreed upon but not provided; and
- For reimbursement for the filing fee.

The Tenant appeared at the hearing. Nobody for the Landlord appeared at the hearing. I explained the hearing process to the Tenant who did not have questions when asked. The Tenant provided affirmed testimony.

The Tenant withdrew the following claims at the hearing:

- Request for an order that the Landlord make emergency repairs; and
- Request to suspend or set conditions on the Landlord's right to enter the rental unit.

As there is no prejudice to the Landlord in permitting the Tenants to withdraw these claims, I allowed the Tenant to withdraw them and I will not consider them.

The Tenant had submitted evidence prior to the hearing. The Landlord had not. I addressed service of the hearing package and evidence.

The Tenant testified that Tenant B.E. served the hearing package and evidence on an employee of the Landlord personally within three days of filing the Application. The Tenant did not know the name of the employee but said it was the assistant building manager. He advised that this person then quit within a week or so. The Tenant testified that Tenant B.E. served this employee at the management office in the building. The Tenant testified that he later spoke to

the site administrator, another employee of the Landlord, about the dispute and the site administrator was aware of it. The Tenants did not submit any evidence about service.

Based on the undisputed testimony of the Tenant, I accept that the hearing package and evidence were served on an agent for the Landlord as required by section 88(b) and 89(1)(b) of the *Residential Tenancy Act* (the “Act”). I also accept that the Tenants complied with section 59(3) of the *Act* and rule 3.1 of the Rules of Procedure (the “Rules”). I note that the assistant building manager then quit. However, at the time of service she was an employee of the Landlord working as assistant building manager and therefore I find the Tenants complied with the service requirements in the *Act* and that the Landlord was properly served with the documents.

I proceeded with the hearing in the absence of the Landlord. The Tenant was given an opportunity to present relevant evidence, make relevant submissions and ask relevant questions. I have considered all documentary evidence and oral testimony of the Tenant. I have only referred to the evidence I find relevant in this decision.

Issues to be Decided

1. Are the Tenants entitled to an order that the Landlord make repairs?
2. Are the Tenants entitled to a reduction in rent for repairs, services or facilities agreed upon but not provided?
3. Are the Tenants entitled to reimbursement for the filing fee?

Background and Evidence

The Tenant testified as follows. There is a written tenancy agreement between the Landlord and Tenants in relation to the rental unit. The tenancy started October 1, 2018 and is for a fixed term of one year. Rent is \$1,825.00 per month due on the first day of each month. The Tenants paid a \$912.50 security deposit. The agreement is signed on behalf of the Landlord and by the Tenants.

The Tenant confirmed that the requested repairs are outlined in an email submitted dated October 25, 2018. The Tenant only sought some of these repairs. The repairs sought included the following:

1. Install shower faucet;
2. Repaint / tile bathroom and door;
3. Fix towel rails;
4. Fix kitchen cabinets;
5. Lounge and bedroom blinds (some are missing, some are different lengths); and
6. Install light in extractor head.

The Tenant only sought that the above list be completed. He did not request any further specifics in the order.

The Tenant testified that the Tenants were living in a different rental unit in the building and gave notice in September of 2018 to move to the current rental unit. He said the Landlord wanted to upgrade parts of the rental unit. The Tenant testified that the Tenants agreed to this and the timeline provided by the Landlord which was that everything would be complete by October 25, 2018. He said the Landlord planned to replace the kitchen cabinets, shower, bathtub and bathroom vanity.

The Tenant said there was a breakdown of communication between the Landlord and Tenants as of October 25, 2018. He testified that the Tenants would send the Landlord emails and not receive replies.

The Tenant testified that the Tenants thought they would be able to use their shower as of October 26, 2018; however, the contractor doing the work told them they could not use it until the night of October 26th. The Tenant testified that the shower was not finished by October 26th and that there was no faucet, shower head or water controls installed. He said the Tenants tried to contact the Landlord about this to no avail. The Tenant testified that the Tenants had no means of bathing for the weekend following October 26th. The Tenant testified that he spoke to the site administrator on October 29th who sent a maintenance person to finish the shower.

The Tenant testified as follows in relation to each item.

1. *Install shower faucet*

The maintenance person rushed through finishing the shower and missed the backing plate for the shower head such that steam and water can get behind the wall. The backing plate is not connected to the wall. He is asking that the backing plate be connected to the wall.

2. *Repaint / tile bathroom and door*

There is no issue with tiles.

Part of the edge of the bathroom door was left rough and unpainted. This does not harm the function of the door. This is decorative. He is asking that the door be re-painted.

3. *Fix towel rails*

The towel rail in the bathroom was coming out of the wall and then fell out. The workers patched the holes in the wall and did not replace the towel rail. There is another towel rail in the

bathroom but it is small whereas the other rail was larger. He is asking that the towel rail be re-installed.

4. *Fix kitchen cabinets*

There is a large gap between the kitchen cabinets and the stove due to the smaller size of the cabinets and appliances installed in the kitchen. Items fall into the gap and the Tenants have to pull the stove out to retrieve the items. He is asking that the cabinet be replaced or that something be placed in the gap to stop things from falling into it.

There are score lines in the gyprock in the kitchen where the old cabinets were attached to the wall. The new cabinets installed are smaller and the score lines are visible. There are also knife gouges in the wall. The workers rushed through the renovations and did not do a proper job. These have been painted over. This does not impede the function of the cabinets. This is more of an esthetic issue. He is asking that the lines and gouges be mudded and sanded.

The Tenant referred to photos in relation to this item.

5. *Lounge and bedroom blinds (some are missing, some are different lengths)*

The blinds in the master bedroom and living room are old. The plastic has aged and become brittle. The blinds break and fall out when the Tenants move them. Parts of the blinds are now missing and so light comes through. Some of the blinds have been replaced but from a set that was shorter so the lengths do not match. He is asking that the blinds in the master bedroom and living room be replaced.

6. *Install light in extractor head*

The workers installed a fan above the stove but did not put a light bulb in it. He is asking that they put a light bulb in it.

The Tenant confirmed the above covers all of the repairs sought in this application.

Rent Reduction

In the Application, the Tenants sought \$1,200.00 as a rent reduction being \$30.00 per day since the initial repairs were supposed to be completed. The Tenants also sought \$30.00 per day until all repairs are finished.

The Tenant advised that the Tenants are now seeking \$2,310.00 being \$30.00 per day since the initial repairs were supposed to be completed which he advised is 77 days. He confirmed the Tenants are still seeking a reduction of \$30.00 per day until all of the repairs are done.

The Tenant submitted that the Tenants are entitled to the rent reduction sought given the following. The lack of respect and communication from the Landlord since October 25th. The Landlord ignored the Tenants' emails. The Landlord did not provide a firm date for replacing the kitchen cabinets. The Landlord installed cabinets that were too small. The upper cabinet in the kitchen was only replaced at the end of November. The cabinets are still not finished as the gap between the cabinet and stove has not been addressed. The Tenants have had multiple conversations with the Landlord about this and still have not been given a date for completion and have only been given excuses.

The Tenant further submitted as follows. The bathroom was left in the state shown in the photos until December 14th. There was dust and raw gyprock in the bathroom. The Tenants were living in a construction zone until December 14th.

The Tenant acknowledged that the Tenants could use the shower as of October 29, 2018 and that they have been able to since.

The Tenant testified that the ongoing renovations have inconvenienced the Tenants as they have had to leave work early to remove items from the bathroom when the Landlord said the repairs would be done and then nobody would attend. He said the Tenants emptied the kitchen cabinets three times for repairs to be done and each time nobody attended to do the repairs.

The Tenant testified about an incident when Tenant B.E. was home and a worker, not involved in the renovations of the rental unit, entered the rental unit and was angry and swearing. The Tenant said Tenant B.E. was put off by this. He submitted that it is stressful and inconvenient to have contractors coming in and out of the rental unit.

The Tenant testified that the Tenants have not been able to use the kitchen at times when the cabinets were to be replaced because they had to move everything out of the kitchen and put it into another room. He said there were workers in the kitchen and dust everywhere at times.

The Tenant submitted that the October 25th email submitted is the written request to the Landlord to do the requested repairs. He said the Landlord did not reply to the email but that the site administrator responded verbally.

Analysis

Section 62(3) of the *Act* states:

The director may make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

Section 65(1)(f) states:

- (1) Without limiting the general authority in section 62 (3)...if the director finds that a landlord or tenant has not complied with the Act, the regulations or a tenancy agreement, the director may make any of the following orders:

- (f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;

I find the following based on the undisputed testimony of the Tenant and evidence submitted.

Repairs

I accept that the Tenants asked the Landlord to do the following repairs in the October 25, 2018 email. I accept that the site administrator responded verbally to this email and therefore that the Landlord received it.

1. Install shower faucet

I accept that the back plate on the shower head is not connected to the wall and that it should be. I order the Landlord to connect the back plate on the shower head to the wall of the shower.

2. Repaint bathroom door

I find this is a decorative issue as acknowledged by the Tenant. I do not find that the function of the door is affected by the poor paint job and do not find this to be a repair issue. I decline to order the Landlord to repaint the bathroom door.

3. Fix towel rails

I accept that the towel rail in the bathroom has fallen off the wall and has not been re-installed. I order the Landlord to re-install the bathroom towel rail.

4. Fix kitchen cabinets

I accept that there is a gap between the kitchen cabinets and the stove. I do not find this to be a repair issue. Gaps between cabinets and appliances are not uncommon. Neither the function of the cabinets nor the function of the stove is affected by the gap. It may be inconvenient for the Tenants to have to clean the area due to items falling into the gap; however, I do not find this is sufficient to justify a repair order. I decline to order the Landlord to address the gap.

I find the issue with the score lines and gouges in the gyprock to be a decorative issue not a repair issue. I decline to order the Landlord to address the score lines and gouges.

5. *Lounge and bedroom blinds (some are missing, some are different lengths)*

I accept that some of the blinds in the master bedroom and living room are broken due to their age. I accept that this does affect the function of the blinds as I accept that they break when the Tenants move them. I also accept that light gets through the broken blinds which are in part meant to keep light out. I accept that this is a repair issue and order the Landlord to repair or replace all broken blinds in the master bedroom and living room.

I decline to order the Landlord to address the blinds that are not broken but are different lengths than the other blinds as I find this to be a decorative issue rather than a repair.

6. *Install light in extractor head*

Policy Guideline 1 addresses the responsibilities of landlords and tenants in relation to items within a rental unit. In relation to light bulbs, the Policy Guideline states that landlords are responsible for making sure all light bulbs are working when the tenant moves in. Tenants are then responsible for replacing light bulbs that burn out.

I understand the issue to be that the Landlord installed a new fan above the stove without putting a light bulb in it. I consider this to be the responsibility of the Landlord as it is similar to ensuring light bulbs are in place and working at the start of the tenancy. I acknowledge that this is during the tenancy; however, the Landlord installed this new item in the rental unit and should ensure that it is properly equipped. This is not about replacing a light bulb, it is about the Landlord providing a light bulb to begin with.

I order the Landlord to put a light bulb in the fan above the stove.

Rent Reduction

I accept that the renovations were to be completed by October 25, 2018. I accept that the renovations took longer than expected. I accept that the renovations inconvenienced the Tenants. I accept that the Tenants' use of their bathroom and kitchen was affected by the renovations. I accept that the bathroom was basically a construction zone from October 25, 2018 to December 14, 2018. I accept that the Tenants could not use their kitchen at times. I find that the Tenants are entitled to some compensation for this.

I do not accept that a rent reduction of \$30.00 per day for 77 days is reasonable in the circumstances. The Tenants knew the renovations would occur and it is reasonable to foresee that they may not finish in time. I found the Tenant's submissions on the rent reduction issue to be very general. For example, the Tenant did not provide specific dates and times when the Tenants could not use the kitchen due to the renovations. I do not agree with the Tenant on

some issues such as that the cabinets are still not finished given the gap between them and the stove. The Tenants were able to use the bathroom and shower three days later than expected. The Tenant did not submit that the Tenants could not use areas other than the bathroom and kitchen during the renovations. I accept that some small issues still need to be addressed by the Landlord as outlined above but have not found that significant work remains outstanding.

I agree to the rent reduction of \$30.00 per day for October 27, 28 and 29th when the shower was supposed to be complete but was not as I find the absence of a shower for this period to be serious and warrant the requested reduction due to the inconvenience caused.

Considering the above, I allow a rent reduction of \$230.00 for the month and a half the bathroom was a construction zone causing inconvenience to the Tenants. I find this amount to be reasonable given the nature of the inconvenience and considering the Tenants were still able to use the bathroom.

Considering the above, I allow a rent reduction of \$150.00 for the inconvenience caused to the Tenants by the kitchen renovations. I find this amount to be reasonable given the nature of the inconvenience and considering the Tenants were able to use the kitchen for most of the time. I further order a rent reduction of \$5.00 per day from the date of this decision which will continue until the Landlord has completed the repairs ordered above. I arrive at this amount given the nature of the repairs which I do not find to be serious. However, they are all repairs the Landlord should have completed before now. The rent reduction of \$5.00 per day will apply until the parties agree in writing that the above noted repairs are complete or the parties apply for a decision from the Residential Tenancy Branch in relation to this issue. The Tenants are authorized to withhold the \$5.00 per day from their rent payments until the parties agree in writing that the above noted repairs are complete or the parties apply for a decision from the Residential Tenancy Branch in relation to this issue.

Given the Tenants were partially successful, I award them reimbursement for the \$100.00 filing fee pursuant to section 72(1) of the *Act*.

Conclusion

The following claims are withdrawn:

- Request for an order that the Landlord make emergency repairs; and
- Request to suspend or set conditions on the Landlord's right to enter the rental unit.

The Landlord is ordered to make the following repairs:

- Connect the back plate on the shower head to the wall of the shower;
- Re-install the bathroom towel rail;
- Repair or replace all broken blinds in the master bedroom and living room; and

- Put a light bulb in the fan above the stove.

The Tenants are entitled to a rent reduction of \$470.00 for the period from October 25, 2018 to the date of this decision.

The Tenants are entitled to reimbursement for the \$100.00 filing fee.

Pursuant to section 72(2) of the *Act*, the Tenants are permitted to deduct \$570.00 from one future rent payment for the above amounts.

The Tenants are entitled to a rent reduction of \$5.00 per day from the date of this decision until the parties agree in writing that the above noted repairs are complete or the parties apply for a decision from the Residential Tenancy Branch in relation to this issue. The Tenants are authorized to withhold the \$5.00 per day from their rent payments.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Act*.

Dated: January 22, 2019

Residential Tenancy Branch