



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes ERP, RR, FF

Introduction

On January 11, 2019, the Tenant applied for dispute resolution seeking the following:

- an order to make emergency repairs to the rental unit.
- to allow the Tenant to deduct the cost of repairs, services, or facilities from the rent.
- to recover the cost of the filing fee.

The matter was scheduled for a teleconference hearing. The Tenant attended the hearing; however, the Landlord did not. The Tenant provided affirmed testimony that he served the Notice of Dispute Resolution Proceeding documents to the Landlord on January 16, 2019. The Tenant testified that he served the Landlord, Mr. A.B. in person at the Landlords office located at the dispute address.

I find that the Landlord was served with the Notice of Dispute Resolution Proceeding documents and failed to attend the hearing in response to the Tenant's claims.

The hearing process was explained. The Tenant was provided with an opportunity to ask questions about the hearing process. The Tenant was provided with the opportunity to present affirmed oral testimony and to make submissions during 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.

Issues to be Decided

- Is the Tenant entitled to an order for the Landlord to make repairs and/or emergency repairs to the unit?
- Is the Tenant entitled to deduct the cost of repairs, services or facilities from the rent?
- Is the Tenant entitled to recover the cost of the filing fee?

Background and Evidence

The Tenant testified that the tenancy began on February 1, 2018, on a one year fixed term basis that has continued on a month to month basis. Rent in the amount of \$1,875.00 is due by the first day of each month. A security deposit of \$912.50 was paid by the Tenant to the Landlord.

The Tenant testified that water is leaking into the rental unit affecting the Livingroom and a bedroom. The Tenant testified that he reported the issue to the Landlord in April 2018. The Tenant testified that the Landlord has not completed the repair and the Tenant has followed up on numerous occasions seeking to have the leak repaired.

The Tenant testified that the Landlord issued entry notices and failed to appear on two occasions.

The Tenant testified that the water leak is causing moisture and condensation issues within the rental unit. The Tenant testified that there is mould growing on the windows in the living room and bedroom. The Tenant initially cleaned the mold; however the mold issue persists.

When the Landlord did not repair the leak in a timely manner the Tenant purchased two air purifiers to improve air quality. The Tenant is looking to recover the cost to purchase the air purifiers.

The Tenant testified that after he served the Landlord with the Notice of Dispute Resolution Proceeding documents, the Landlord contacted him asking him to settle the dispute.

The Tenant testified that the Landlord attended the rental unit on January 25, 2019, and mentioned that they need to fix the leak coming from the balcony of the unit located above the Tenant. The Tenant submitted that he has not noticed any repair work being completed and the Landlord has not informed him of when the repair will be complete.

The Tenant is seeking an order that the Landlord complete the repair.

Analysis

Section 32 of the Act states that 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.*

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.
- (3) A tenant may have emergency repairs made only when all of the following conditions are met:
- (a) emergency repairs are needed;
 - (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
 - (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

Section 65 of the Act states that if the director finds that a Landlord or Tenant has not complied with the Act, the regulations or a tenancy agreement, the director may order that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement.

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

I find that the Landlord was notified that there was a leak in April 2018. I find that the Landlord has had 10 months to deal with the repair issue. I find that it is taking an unreasonable amount of time for the Landlord to deal with the repair.

I find that the repair of the water leak is necessary to make the rental unit suitable for occupation by the Tenant.

While I am mindful that the Landlord recently attended the unit and may have already made arrangements for the repair, I order the Landlord to complete the repair within 30 days of the date of this Decision. If the Landlord fails to have the repair completed beyond March 8, 2019, the Tenant may seek further compensation.

I find that due to Landlords failure to complete the repair over the past ten months, the Tenant is justified in their purchase of the air purifiers.

I order that the Tenant may deduct the amount of \$425.22 from one (1) future rent payment.

Section 72 of the *Act* gives me authority to order the repayment of a fee for an application for dispute resolution. As the Tenant was successful with his application, I order the Landlord to repay the \$100.00 fee that the Tenant paid to make application for dispute resolution.

I authorize the Tenant to deduct the amount of \$525.22 from one (1) future rent payment.

Conclusion

The Tenant's application was successful. I order the Landlord to repair the water leak no later than March 8, 2019.

I authorize the Tenant to deduct the amount of \$525.22 from one (1) future rent payment.

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: February 07, 2019

Residential Tenancy Branch