



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes FFT MNDCT RP RR

Introduction

This hearing dealt with the tenant's application pursuant to the Residential Tenancy Act (the "Act") for:

- a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement pursuant to section 67;
- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order for the landlord to make repairs to the rental unit pursuant to section 32; and
- reimbursement of the filing fee pursuant to section 72.

The tenant appeared at the hearing and ZC appeared on behalf of the landlord as its representative (the "landlord"). Both parties were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

The tenant testified that he served the landlord with the notice of dispute resolution package on December 18, 2018 by placing the documents and the tenant's evidence in the landlord's delivery box. Pursuant to section 89 of the Act, this is not a valid method of service for a notice of dispute resolution. However, the landlord has not disputed receipt of the notice of dispute resolution package and their representative has appeared at the hearing. As such, I consider the landlord to have been adequately served with the notice of dispute resolution even though the tenant did not use a method of service authorized by the Act.

Preliminary Issue: Severance of Tenant's Application

Residential Tenancy Branch (RTB) Rules of Procedure 2.3 state that, "Claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply."

It is my determination that the priority claim regarding the tenant's request for repairs is not sufficiently related to the tenant's other claims to warrant that they be heard together. The parties were given a priority hearing to address the question of the tenant's request for repairs.

The tenant's other claims are unrelated in that they do not pertain to facts relevant to the tenant's repair request. As such, I exercise my discretion to dismiss all of the tenant's claims with leave to reapply except for the tenant's request for repairs and tenant's request for reimbursement of the filing fee.

Issue(s) to be Decided

Is the tenant entitled to an order to the landlord to make repairs to the rental unit pursuant to section 32?

Is the tenant entitled to reimbursement of the filing fee pursuant to section 72?

Background and Evidence

The tenant that the tenancy started on December 1, 2013 with a monthly rent of \$1,800.00. The tenant testified that the rent later increased to the current rent of \$1,899.00 per month. The tenant testified that he paid a security deposit of \$900.00 and a pet damage deposit of \$900.00. The tenant has applied for an order for plumbing repairs to the rental unit.

The tenant that there have been multiple problems with the rental unit, explaining that the heating system was previously not working. However, the tenant said that the heating system is now operable.

The tenant also explained that the landlord had previously issued a notice to end tenancy on the basis of the landlord's need to make repairs to the bathroom. The tenant testified that the landlord had requested vacant possession so they could perform

extensive work on the bathroom in the rental unit. The tenant noted this previous notice to end tenancy was cancelled in a RTB hearing.

The tenant also testified that there were some problems with the plumbing in the rental unit, saying the toilet did not “swirl” properly when it was flushed and the water in the shower made a noise. The tenant said there were no other problems with the plumbing in his rental unit.

The landlord testified that they previously served a notice to end tenancy because the tenant would not co-operate with the contractors and make the rental unit available for major repairs.

The landlord said that she was not aware of the plumbing issues described by the tenant. The tenant disputed the landlord’s allegation that he does not reside on the property. The tenant testified that he does still permanently live at the property but he is temporarily staying at another location for a work project.

Analysis

Section 32 states the landlord’s obligations to perform repairs are as follows:

- 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.

The burden of proof is on the tenant to establish that repairs are needed because the landlord has not complied with section 32 of the *Act*.

I find that the tenant has not produced sufficient evidence to establish that the issue with the toilet flushing or the shower noise do not comply with the health, safety and housing standards required by law as required by section 32 of the *Act*. The tenant did not provide any evidence that the stated issues hindered his use of the toilet or shower in anyway. The tenant did not even produce any evidence that the stated issues inconvenienced him. I find that the tenant has failed to produce satisfactory evidence to

establish that repairs are needed because the landlord has not complied with section 32 of the *Act*.

Accordingly, I dismiss the tenant's repair request application.

The tenant must bear the cost of their own filing fee.

Conclusion

I dismiss all of the tenant's claims with leave to reapply except for the tenant's request for repair and his request for reimbursement of the filing fee.

I dismiss the tenant's request for repairs without leave to reapply.

I dismiss the tenant's request for reimbursement 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: February 2, 2019

Residential Tenancy Branch