



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding REMAX REAL ESTATE and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, OLC, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants for an order to have the landlord make repairs to the unit, to have the landlord comply with the Act and to recover their filing fee from the landlord.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Preliminary and procedural matter

In this case, the tenant's application seeks repairs to the stove, and to have the garage door painted. The tenant's indicate in their application that they have many repairs that need to be address; however, they did not listed in the details of their dispute what those repairs were.

I find the tenants have not complied with section 59 of the Act, which required the full particulars of the claim to be listed in their application. This is to give the other party a fair opportunity to respond. Therefore, I find the only repairs to be heard at today's hearing are the stove, and the painting of the garage door.

The tenants have not listed the correct landlord in their application. Therefore, I have amended the style of cause to reflect the landlord listed in the tenancy agreement.

I also note that the female tenant was cautioned on several occasions during the hearing. The female tenant was interrupting and not following the instruction that they were given and argumentative.

The landlord's agent stated that they if the tenants are not happy with the rental unit that they are willing to let the tenants out of the fixed term tenancy as long as they give written notice to end the tenancy at least 30 days in advance.

Issue to be Decided

Should the landlord be ordered to do repairs?

Background and Evidence

The tenancy began on January 15, 2019. Rent in the amount of \$2,300.00 was payable on the first of each month. A security deposit of \$1,150.00 and a pet damage deposit of \$500.00 were paid by the tenants.

The tenants testified that the stove has been broken and the landlord has not made the repair.

The landlord's agent testified that they have a replacement stove for the tenant; however, the tenant does not like the stove and does not want it.

The tenants testified that the landlord agreed at the start of the tenancy to paint the garage door, in the spring. The tenants stated that they do not believe this repair will be completed.

Analysis

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

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

In this case, the tenants' stove is broken and the landlord has a replacement stove. The evidence of the landlord was the tenants did not like the stove and would not accept it. However, the tenants do not have the right to refuse a stove as long as the replacement stove is functional.

As the landlord's agent stated that they would have the replacement stove installed by Monday, June 3, 2019, I find it not necessary to make an order at this time. The tenants are to ensure access is given for the installation of the stove.

The tenants further seek to have the garage door painted. This was agreed to at the start of the tenancy, which the agreement was that it would be done in the spring. I find the tenants' application is premature, as the landlord has not violated the agreement, as it is still early spring and any exterior painting requires consideration to weather. The landlord is to ensure they paint the door as agreed.

In this case, I heard evidence on the backstairs, although it was not listed in the tenants' application. The landlord agreed to have the stairs inspected by June 7, 2019, and if necessary for health or safety reasons have those repairs made no later than July 15, 2019.

As I found it was not necessary to order the landlord to make repairs, I decline to award the filing fee to the tenants.

The tenants should ensure that they have read section 32 of the Act as noted above. Cosmetic repairs are not considered a health or safety issue.

The tenant should also be aware there is no requirement under the Act that the landlord must respond to an email, within 48 hours.

Conclusion

I decline to make any orders against the landlord for the above noted reasons. Should the landlord not make repairs that are for health and safety reasons the tenants are at liberty to reapply.

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: May 31, 2019

Residential Tenancy Branch