



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, FF

Introduction

This hearing was convened in response to an application by the Tenant pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for repairs - Section 32; and
2. An Order to recover the filing fee for this application - Section 72.

The Landlord and Tenant were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to an order for repairs?

Is the Tenant entitled to recovery of the filing fee?

Background and Evidence

The following are agreed facts: The tenancy under written agreement started on September 1, 2017. Rent of \$1,000.00 is payable on the last day of each month.

The Tenant states that the tub and tiles require replacement along with the gyproc behind the tiles. The Tenant states that the tiles and tub are as old as the building. The Tenant states that mold is present on the gyproc and that the Tenant may be

experiencing health problems as a result of the mold. The Tenant states that medical investigations are currently underway.

The Landlord submits in its material provided for this hearing that the tub is 50 years old. The Landlord states that a contractor inspected the tub area and its report indicates that no mold was present and that the gyproc is solid. The Landlord provides a copy of this report. The Landlord states that a few tiles around the tub were replaced approximately 3 years ago and that the gyproc was not damaged at the time.

The Tenant states that the contractor for that report is not a certified contractor and that the Landlord had a certified contractor inspect the bathroom a few days after the first inspection. The Tenant states that this person informed the Tenant that there was extensive water damage to the tub and gyproc requiring its replacement. The Tenant states that the bottom two rows of tiles along the tub and the bottom 4 rows of tiles around the faucet require replacement.

The Landlord confirms that a second contractor inspected the area and that no written report was provided to the Landlord other than texts informing the Landlord that the walls were sound, with no dry rot, water or mold. The Landlord confirms that the first inspection was done by a person who is not certified but has been doing remediation work for 15 years. The Landlord states that the contractor for the first inspection did not pull off any tiles to inspect the gyproc. The Landlord states that the wall behind the faucet area of the tub was exposed previously for repairs from a leak and shows only discoloration.

The Tenant agrees that that repairs were done in April 2019 to replace a tap for the washer and that there was no actual leak. The Tenant states that it removed and replaces the soap tray and that a photo of the hole shows dry but stained gyproc that has mold and is crumbled. The Landlord states that the Tenant removed the bathtub soap tray and then reinstalled the tray before the contractor carried out the inspection.

The Landlord states that if gyproc is exposed to moisture it is ruined and would be mush. The Landlord states that the gyproc could be inspected without removing the tiles and that the contractor used a “thump test” to determine that the gyproc was solid.

The Landlord states that it is agreeable to cleaning all the tiles, removing the grout and caulking around the two levels of the tile up on the sides of the tub and the four levels of tile up around the faucet. The Landlord states that new grout, caulking and sealer would then be applied.

The Landlord states that the tub, while old, is in good condition and of better quality than new tubs on the current market. The Landlord states that it is agreeable to removing the stains on the tub and to refinish the tub surface. The Landlord states that it is agreeable to having this completed within a couple of weeks. The Tenant argues that nothing less than the replacement of the tub, affected tiles and gyproc would be acceptable

Analysis

Section 32(1) of the Act provides 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.

Mold cannot be discerned on any of the photos from either Party. Given the Landlord’s oral, photo and contractor evidence of the state of the gyproc, I find on a balance of probabilities that the Tenant has not substantiated that the gyproc requires replacement. I consider that the Landlord’s evidence that the current tub is of better quality than new tubs to be a reasonable estimation when considering replacement. I also consider that refinishing the tub would provide an acceptable option over replacement. For these reasons I find that the Tenant has not substantiated an entitlement to the replacement

of the tub. Given the Landlord's agreement to otherwise repair the tub and tiles I find that the Tenant has substantiated repairs to these bathroom areas. I therefore order the Landlord to make repairs within two weeks receipts of this decision as follows:

- clean all tiles and remove all grout;
- seal grout and replace caulking on all tiles;
- remove stains on tub; and
- refinish the tub.

As the Tenant's application has had merit I find that the Tenant is entitled to recovery of the **\$100.00** filing fee and the Tenant may deduct this from future rent payable in full satisfaction of this claim.

Conclusion

The Landlord is ordered to make repairs as set out above.

I grant the Tenant an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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: September 27, 2019

Residential Tenancy Branch