



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

DECISION

Dispute Codes

RP, RR, PSF, FFT

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution ("application") seeking remedy under the *Residential Tenancy Act* ("Act") for regular repairs to the unit, site or property, for a rent reduction in the amount of \$5,604.00, for an order directing the landlord to provide services or facilities agreed upon but not provided, and to recover the cost of the filing fee.

The tenant and an agent for the landlord LP ("agent") attended the teleconference hearing and gave affirmed testimony. During the hearing the parties were given the opportunity to provide testimony and documentary evidence related to the tenant's request for repairs, which in this matter related to two elevators. A summary of the testimony and evidence is provided below and includes only that which is relevant to the hearing.

Both parties confirmed having been served with documentary evidence. Both parties also confirmed that they had the opportunity to review documentary evidence prior to the hearing. I find the parties were sufficiently served in accordance with the *Act*.

Preliminary and Procedural Matters

Rule 2.3 of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules") authorizes me to dismiss unrelated disputes contained in a single application. In this circumstance the tenant indicated several matters of dispute on their application, the most urgent of which is the application repairs to the unit, site or property and specifically, repairs to the building elevators. I find that not all the claims on the application are sufficiently related to be determined during this proceeding. I will, therefore, only consider the tenant's request for repairs to the building elevators, and

the tenant's application to recover the cost of the filing fee at this proceeding. The balance of the tenant's application is dismissed, with leave to re-apply.

Issues to be Decided

- Should the landlord be directed to make repairs to the unit, site or property?
- Is the tenant entitled to the recovery of the cost of the filing fee under the *Act*?

Background and Evidence

The parties agreed on the following facts during the hearing:

1. As of the date of the hearing, October 7, 2019, the parties confirmed that the elevators in the rental building are functioning correctly.
2. The parties agreed that elevator one was out of order between April 28, 2019 and September 29, 2019.
3. The parties agreed that elevator two was not fully operational between June 17, 2019 and June 27, 2019, with the exception being when an elevator attendant was on-site to provide manual operation partially during the day.
4. A third elevator exists in the building; however, it only provides access from the ground floor to the Atrium a few floors above, and not to the tenant's 9th floor rental unit. The third elevator is also smaller than elevators one and two.
5. Elevators one and two, when operational, provide access to all floors of the rental building.

The tenant filed their application for dispute resolution on August 4, 2019. The tenant paid a filing fee of \$100.00 and is seeking the recovery of that filing fee as part of their application.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on the balance of probabilities, I find the following.

Tenant's claim for repairs to the elevators – I find that as of the date of the hearing, October 7, 2019, elevators one, two and three were confirmed by both parties to be functioning correctly. As a result, I find that this matter is now moot, and does not require an order for repairs under the *Act*.

Filing fee – I will now address the filing fee. I have considered that the parties did not dispute that elevator one was out of service/not operational between April 28, 2019 and September 29, 2019. As a result, I find the tenant is entitled to the recovery of the cost of the filing fee as I note the tenant applied on August 4, 2019, for a request for repairs to the elevator(s), and that elevator one was not operational during that time period. Accordingly, and pursuant to section 72 of the *Act*, I grant the tenant **\$100.00** for the cost of the filing fee. Pursuant to sections 67 and 72 of the *Act*, I make the following order:

I ORDER a one-time rent reduction in the amount of \$100.00 from a future month of rent and the month of which, will be determined by the tenant, in full satisfaction of the tenant's recovery of the cost of the filing fee.

Conclusion

I find the elevator repair request is now moot as both parties confirmed at the hearing that elevators one, two and three are operational.

I grant the tenant the filing fee as noted above and have made the above-noted order.

This decision will be emailed to both parties at the email addresses confirmed during the hearing.

This decision is final and binding on the parties, unless otherwise provided under the *Act*, and 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: October 7, 2019

Residential Tenancy Branch