



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 43 HOUSING SOCIETY
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, FFT

Introduction

On August 26, 2019, the Tenant applied for a Dispute Resolution proceeding seeking a Repair Order pursuant to Section 32 of the *Residential Tenancy Act* (the “Act”) and seeking to recover the filing fee pursuant to Section 72 of the *Act*.

The Tenant attended the hearing with T.B. appearing with her. L.D. and R.M. attended the hearing as agents for the Landlord. All in attendance provided a solemn affirmation.

The Tenant advised that she served the Landlord with the Notice of Hearing package by registered mail, but she is not sure when this was done. L.D. confirmed receipt of the Notice of Hearing package. Based on this undisputed testimony, in accordance with Sections 89 and 90 of the *Act*, I am satisfied that the Landlord was served with the Notice of Hearing package.

The Tenant advised that she did not serve her evidence to the Landlord. As I am not satisfied that the Tenant served her evidence in accordance with the *Act*, her evidence was excluded and not considered when rendering this decision. However, she was able to provide testimony with respect to this evidence during the hearing.

L.D. advised that the Landlord’s evidence was served to the Tenant by registered mail on October 4, 2019 and the Tenant confirmed receiving this. As service of this evidence complies with Rule 3.15 of the Rules of Procedure, I have accepted the Landlord’s evidence and will consider it when rendering this decision.

All parties were given an opportunity to be heard, to present sworn testimony, and to make submissions. I have reviewed all oral and written submissions before me; however, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

- Is the Tenant entitled to a Repair Order?
- Is the Tenant entitled to recover the filing fee?

Background and Evidence

While I have turned my mind to the accepted documentary evidence and the testimony of the parties, not all details of the respective submissions and/or arguments are reproduced here.

Both parties agreed that the tenancy started on October 1, 2014, that the current economic rent was established at \$372.00 per month, and that it was due on the first of each month.

The Tenant advised that she was applying to “fix everything”; however, when she was advised that she needed to explain her requests specifically, she stated that “since July, mostly everything has been fixed.” She was advised again that if she was applying for Dispute Resolution seeking a repair Order for issues within the rental unit, she needed to clearly outline her claims. She then submitted that there was a blockage of her toilet on July 16, 2019 and a repair person fixed this issue; however, the lid to the toilet tank was inadvertently broken and has not been replaced yet.

L.D. advised that she is aware of the toilet tank lid issue and they have texted the Tenant trying to fix this; however, the Tenant has been making it difficult for the Landlord to address this issue. She stated that this will be fixed this week.

The Tenant advised that there are electrical problems where the light bulbs would burn out frequently. She stated that a repair person was dispatched in September 2019, but it was determined that this issue was caused by moisture in the ceiling. The repair person said he would come back, but he has not returned and the burning out of lightbulbs has happened three more times since. She stated that the Landlord took a picture of this issue.

L.D. advised that they are aware of the electrical issue but the staff that was dealing with the problem is not in the office currently, so she is not aware of all the details of this issue. She stated that she will follow-up on this issue next week.

The Tenant stated that the flooring was replaced recently; however, there is a section that is not completely fixed as there is a hole in the upstairs bathroom flooring under the cabinet. She stated that this does not affect the functionality of the rental unit or affect her ability to use or enjoy the rental unit.

L.D. stated that she has not been made aware of the issue and the Tenant confirmed that she did not let the Landlord know that this was a problem. Now that the Landlord is aware of the issue, L.D. stated that she will investigate this.

The Tenant advised that the corners of the walls were chipped and in need of repair, as well as repainting. She has lived there for five years and the walls have never been painted since they moved in.

L.D. stated that the walls need more than painting but the damage to the walls are due to the Tenant's negligence, not because of natural deterioration. She acknowledged that they will repair the walls if necessary; however, this will be at the Tenant's expense.

Finally, the Tenant stated that the bedroom doors have holes in them that were there at the start of the tenancy; however, she did not raise this as a concern at the outset of the tenancy.

L.D. referred to the move-in inspection report which indicated that there was a small hole in one of the doors; however, to her knowledge, the Tenant has placed a sticker over this hole to cover it. The Tenant then changed her testimony, confirmed that there was only one hole in one door, and acknowledged that a sticker had been placed over the hole. L.D. stated that she will add this door issue to her list of repairs.

Analysis

Upon consideration of the evidence before me, I have provided an outline of the following Sections of the *Act* that are applicable to this situation. My reasons for making this decision are below.

Section 32 of the *Act* outlines the Landlord's and Tenant's obligations to repair and maintain the rental unit and states that "A landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant."

While the Tenant brought forth multiple complaints about issues that needed repairing, I find it important to note that the burden of proof is on the applicant to prove their case.

The consistent, documented evidence before me is that the Landlord has taken the necessary steps, within a timely manner, to address any issues that they have been made aware of.

Furthermore, the Landlord acknowledges that there are other issues that they have been made aware of that they will now address, apart from the repair and repainting of the walls.

As the Tenant acknowledged that “since July, mostly everything has been fixed”, as the Tenant has submitted no documentary evidence supporting the claims that she is alleging, and as the Landlord is taking steps to rectify any repair issues, I do not find that the Tenant has substantiated a claim that a Repair Order is necessary to be granted in this particular instance, nor do I find that there are any safety issues with respect to these claims. Ultimately, I dismiss the Tenant's claims in their entirety.

As a note, L.D. advised that part of the reason that some repairs have taken longer to fix were due to the difficulty the Tenant has caused in allowing access to the rental unit or because of the Tenant's husband's confrontational and aggressive behaviour and actions. The parties were advised that as long as the Landlord provides the proper written notice to enter the rental unit to conduct repairs pursuant to the *Act*, the Landlord must be granted access. The Tenant was cautioned that any behaviours or actions from her or any other occupants of the rental unit that are contrary to the *Act* may potentially jeopardize her tenancy.

As the Tenant was not successful in her claims, I find that the Tenant is not entitled to recover the \$100.00 filing fee paid for this application.

Conclusion

I dismiss the Tenant's Application without leave 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: October 22, 2019

Residential Tenancy Branch