



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, FFT

Introduction

This hearing convened as a result of a Tenants' Application for Dispute Resolution, filed on November 7, 2019 wherein the Tenants requested an Order that the Landlord make emergency repairs to the rental unit and to recover the filing fee.

The hearing was conducted by teleconference at 11:00 a.m. on November 26, 2019.

Both parties called into the hearing and were provided the opportunity to present their evidence orally and in written and documentary form and to make submissions to me. The Tenant A.P. appeared on her own behalf and as agent for S.D. The Tenants also had a witness, S.C., available to testify, however, her testimony was not required and she was excluded from the hearing. The Landlord was assisted by her niece who also acted as an interpreter.

The parties agreed that all evidence that each party provided had been exchanged. No issues with respect to service or delivery of documents or evidence were raised.

I have reviewed all oral and written evidence before me that met the requirements of the *Residential Tenancy Branch Rules of Procedure*. However, not all details of the respective submissions and or arguments are reproduced here; further, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Preliminary Matters

At the end of the hearing, and after the Tenant and the Landlord had provided affirmed

testimony the Tenant announced that she would be moving out of the rental unit within five days of the date of the hearing and by December 1, 2019. The Tenant then abruptly disconnected from the hearing. I confirm I did not hear any evidence from the landlord in the absence of the Tenant, save and except to confirm her email address for delivery of this my Decision.

Issues to be Decided

1. Should the Landlord be ordered to make emergency repairs?
2. Are the Tenants entitled to recover the filing fee?

Background and Evidence

The Tenant, A.P., testified as follows. She stated that the tenancy began February 2019. She stated that rent was supposed to be \$1,700.00, but she pays \$1,850.00.

In terms of her request for emergency repairs, the Tenant stated that the rental unit has a leak in the roof. She was not able to say when she informed the Landlord, only that it was approximately two weeks prior to October 19, 2019. Introduced in evidence by the Tenants were copies of text messages dated October 19, 2019, October 21, 2019 and October 23, 2019 in which the parties communicate about the leak.

The Tenant stated that the leak was fixed as the Landlord put a tarp on the roof. The Tenant stated that the Landlord cut open the drywall in her ceiling and has yet to repair the ceiling.

The Tenant also alleged there was black mould in the bathroom. She claimed the Landlord was aware of this and was monitoring it. She claimed she was informed by a plumber that the mould was black mould.

Finally, the Tenant stated that the fan in the bathroom does not work. She claimed she was informed by an electrician that the fan may spark and create a fire.

The Landlord responded that she was first informed about the leak in the rental unit on October 18, 2019. The Landlord further testified that they had to cut out drywall to see where the water was coming from and discovered that the leak was coming from the roof. The roof was repaired on November 2, 2019. A copy of the invoice dated November 7, 2019 was provided in evidence.

The Landlord testified that she had a plumber come in three times as originally they were unaware of the source of the leak; in support she provided a receipt from the plumber dated November 14, 2019.

The Landlord stated that the drywall repair work has not been completed because the Tenant does not answer the door and won't let the workers in to complete the job.

The Landlord confirmed that she is aware of the mould in the bathroom and testified that the Tenant notified her on November 1, 2019. The Landlord stated that the Tenant blocked her number and refuses to respond to messages such that she is not able to attend to this work.

The Landlord also confirmed that she has tried to repair the bathroom fan and sent someone on November 11, 2019. The Landlord claimed that the Tenant again refused her entry.

When I asked the Landlord if the drywall and fan could be repaired within two weeks of the hearing she said yes. She also confirmed she would attend to the mould in the bathroom.

In reply the Tenant stated that the Landlord has to give her proper notice. When I attempted to arrange a set time for the Landlord to complete the requested repairs the Tenant stated they were moving out on the weekend, by December 1, 2019. After I informed the Tenant that an Order for emergency repairs would not be likely if the tenancy was ending five days from the hearing date, the Tenant abruptly disconnected from the hearing.

Analysis

This hearing convened as an expedited hearing pursuant to *Residential Tenancy Branch Rule 10*.

The Tenants seek an Order pursuant to section 33 of the *Act* which defines emergency repairs as follows:

33 (1) In this section, "**emergency repairs**" means repairs that are

(a) urgent,

(b)necessary for the health or safety of anyone or for the preservation or use of residential property, and

(c)made for the purpose of repairing

(i)major leaks in pipes or the roof,

(ii)damaged or blocked water or sewer pipes or plumbing fixtures,

(iii)the primary heating system,

(iv)damaged or defective locks that give access to a rental unit,

(v)the electrical systems, or

(vi)in prescribed circumstances, a rental unit or residential property.

I am satisfied, based on the evidence before me, that the repairs to the roof have been completed. I accept the Landlord's testimony and documentary evidence that this repair was done within a reasonable time after the Tenants informed the Landlord of the leak.

The repairs to the drywall are not emergency repairs as defined by section 33. Similarly, the bathroom fan is not an emergency repair, as I find the Tenants have submitted insufficient evidence to support a finding that the issues with the fan relate to a larger problem with the electrical system.

While mould remediation may be an emergency repair pursuant to section 33, I find the Tenants have submitted insufficient evidence to support such a finding.

In any event I accept the Tenant's testimony that they are moving from the rental unit on December 1, 2019. As that is within five days of the date of the hearing, I find that the requested repairs are not urgent nor are they necessary at this time.

For the above reasons, the Tenants' request for an Order for emergency repairs is dismissed. As they have been unsuccessful in their application, their request to recover the filing fee is similarly dismissed.

Conclusion

The Tenants' request for an Order for emergency repairs and recovery of the filing fee is dismissed.

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: November 26, 2019

Residential Tenancy Branch