



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, OLC, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution, made on May 24, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order that the Landlord comply with the Act, tenancy agreement, or regulations;
- an order for regular repairs; and
- an order granting recovery of the filing fee.

The Tenant and the Landlord attended the hearing at the appointed date and time. At the beginning of the hearing, the parties acknowledged receipt of their respective application package and documentary evidence. No issues were raised with respect to service or receipt of these documents during the hearing. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

1. Is the Tenant entitled to an order for the Landlord comply with the Act, tenancy agreement or regulations, pursuant to Section 62 of the *Act*?
2. Is the Tenant entitled to an order for the Landlord to make regular repairs to the rental unit, pursuant to Section 32 and 62 of the *Act*?

3. Is the Tenant entitled to the recovery of the filing fee, pursuant to Section 72 of the *Act*?

Background and Evidence

The parties testified and agreed to the following; the tenancy began on December 1, 2019. Currently, the Tenant is required to pay rent in the amount of \$1,550.00 which is due to the Landlord on the first day of each month. The Tenant paid a security deposit in the amount of \$775.00, which the Landlord continues to hold.

The Tenant stated that she submitted her Application in relation to several issues in the rental unit which need repair.

The Tenant stated that at the start of her tenancy, she noticed that the dishwasher was leaking. The Tenant immediately brought forward her concern to the Landlord who had a technician attend the rental unit to inspect the dishwasher. The Landlord stated that it was determined that the dishwasher would be more expensive to repair than it was to replace. The Landlord stated that the technician turned off the water valve which will prevent any further leaks. The parties agreed that the Tenant has been left without a functioning dishwasher. The parties previously agreed to a rent reduction in the amount of \$25.00 a month as a result of the Tenant not having a functioning dishwasher to use.

The Tenant stated that she thought the rent reduction was only meant to be temporary compensation while the Landlord found a new dishwasher to replace the broken one. The Landlord stated that she is not able to afford a new dishwasher at this time. The Tenant is seeking that the Landlord comply with the tenancy agreement which indicates that a dishwasher is included in the rent. The Tenant provided a copy of the dishwasher in support.

The Tenant stated that she noticed some bugs in her bathroom. The Tenant stated that she notified the Landlord about the bugs. The parties agreed that the Landlord attended the rental unit on the same date and sealed the cracks in the bathroom to prevent any bugs from entering. During the hearing, the Tenant confirmed that she has not noticed the presence of anymore bugs since the Landlord's repair.

Lastly, the Tenant stated that there is mould forming around her bathroom sink. The Tenant stated that she is concerned about the potential harm this may cause to her health. The Landlord stated that the Tenant had previously had the bathtub re-sealed and she was able to deduct that cost from her rent. The Landlord questioned why the Tenant did not have her sink re-sealed at the same time. The Landlord stated that it is not mould but rather mildew which is not harmful.

If successful, the Tenant is seeking the return of the filing fee paid to make the Application.

Analysis

Based on the affirmed oral testimony and documentary evidence, and on a balance of probabilities, I find:

Section 32 of the *Act* outlines the Landlord and Tenant obligations to repair and maintain

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.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

With respect to the Tenant's Application to have a functioning dishwasher installed in her rental unit, I accept that the parties agreed that the dishwasher is broken and needs replacement. I find that the Tenant has provided sufficient evidence to demonstrate that a dishwasher is included in her rent, according to the tenancy agreement. As such, I order that the Landlord make arrangements to have the broken dishwasher repaired or replaced so that the Tenant has the ability to use a functioning dishwasher in her rental unit.

Pursuant to Section 62 of the *Act*, I order the Landlord repair or replace the dishwasher as soon as possible, but no later than July 31, 2020. Should the Landlord not comply with this order, the Tenant is at liberty to reapply for monetary compensation, including a further reduction of monthly rent, under the *Act*.

The Tenant stated that she has found bugs in her bathroom. I accept that the parties agreed that the Landlord sealed the cracks in the bathroom and that the Tenant has not seen the anymore bugs since. As such, I dismiss this portion of the Tenant's claim with leave to reapply should the bugs return.

Lastly, the Tenant stated that there is mould growing around her bathroom sink. In this case, I find that the Tenant is obligated to maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access. I find that the Tenant has provided insufficient evidence to

demonstrate that the discolouration around the bathroom sink was a result of the Landlord breaching the Act. As such, I dismiss the Tenant claim without leave to reapply.

As the Tenant was partially successful in her Application, I order the Tenant to recover their \$100.00 filing fee for the Application from the Landlord, by reducing their next monthly rent payment by \$100.00.

Conclusion

I order that the Landlord repair or replace the dishwasher in the rental unit as soon as possible, but no later than July 31, 2020.

The Tenant is entitled to recover the \$100.00 filing fee for their Application. The Tenant is permitted to deduct this amount from her next rent payment.

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: June 18, 2020

Residential Tenancy Branch