



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR RP PSF FF

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution made on June 3, 2020 (the "Application"). The Tenant applied for the following relief, pursuant to the *Residential Tenancy Act* (the "Act"):

- an order reducing rent for repairs, services, or facilities agreed upon but not provided;
- an order that the Landlord make repairs to the unit, site, or property;
- an order that the Landlord provide services or facilities agreed upon but not provided; and
- an order granting recovery of the filing fee.

The Tenant did not attend the hearing but was represented by his brother and agent, I.I. The Landlord attended the hearing on her own behalf. Both I.I. and the Landlord provided affirmed testimony.

On behalf of the Tenant, I.I. testified that the Landlord was served with the Notice of Dispute Resolution Proceeding package and documentary evidence in three email packages. The Landlord acknowledged receipt. The Landlord testified the documentary evidence upon which she intended to rely was served on the Tenant in two email packages. I.I. acknowledged receipt. No issues were raised with respect to service or receipt of the above documents. The parties were in attendance or were represented and were prepared to proceed. Pursuant to section 71 of the *Act*, I find the above documents were sufficiently served for the purposes of the *Act*.

Both I.I. and the Landlord were given a full 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.

Preliminary and Procedural Matters

Rule of Procedure 2.3 permits arbitrators to use their discretion to dismiss unrelated claims with or without leave to reapply. In this case, I find that the repairs requested by the Tenant are the most important issue to address. Therefore, I find it appropriate to exercise my discretion and dismiss the Tenant's request for an order reducing rent for repairs, services, or facilities agreed upon but not provided, with leave to reapply.

Issues to be Decided

1. Is the Tenant entitled to an order an order that the Landlord make repairs to the unit, site, or property?
2. Is the Tenant entitled to an order an order that the Landlord provide services or facilities agreed upon but not provided?
3. Is the Tenant entitled to an order an order granting recovery of the filing fee?

Background and Evidence

The Landlord and I.I. agreed the tenancy began in or about June 2015 and continues on a month-to-month basis. Rent is currently due in the amount of \$2,460.00 per month. The Tenant paid a security deposit of \$1,200.00, which the Landlord holds. The Landlord and I.I. agreed that I.I. is not a tenant but occupies the rental unit as a "house sitter" when the Tenant is away.

The Tenant sought an order that a number of requests for repairs have not been addressed by the Landlord. First, I.I. testified that the washing machine is not functioning properly and needs to be repaired or replaced. A video depicting the machine in operation, banging loudly, was submitted into evidence.

In reply, the Landlord agreed to replace the washing machine and dryer and expects it will be installed within two weeks after the date of this hearing, or July 13, 2020.

Second, I.I. testified that the toilet does not flush properly two or three times per week. When this happens, the Tenant or I.I. have to remove the lid and flush manually.

In reply, the Landlord testified that she has been at the rental unit in response to the Tenant's concerns and the toilet always works for her. However, the Landlord agreed to send a handyman to the rental unit to address any outstanding issues with the toilet by July 6, 2020.

Third, I.I. testified that tissues with bathtub drains have been fixed.

Fourth, I.I. testified that the bathroom sink leaks into the cupboard below, resulting in water stains and wood rot. In support, the Tenant submitted a photograph of the interior of the bathroom cupboard. Although some very mild water staining may be present, the image does not depict standing water or wood rot. The image also depicts personal items in cardboard boxes that have not been removed from the cupboard.

In reply, the Landlord testified that a handyman attended in September 16, 2019 to address the outstanding issues at that time. She testified that these new issues have not been raised by the Tenants. However, she agreed to have her handyman return to address any issue by July 6, 2020.

Fifth, I.I. testified there is a piece of cracked tile beside the toilet. The Tenant submitted a photograph of the crack in support. I.I. and the Landlord agreed the crack was present at the beginning of the tenancy. I.I. submitted that cracks like the one depicted can get worse and lead to problems.

In reply, the Landlord stated the crack was present when the tenancy began and submitted that she is not obligated to repair it.

Sixth, I.I. testified that rotten wood beside the bathroom cupboard has been repaired but that there is rotten wood under the bathroom sink that has not been addressed.

In reply, the Landlord testified that the image depicting the interior of the cupboard under the sink does not reveal any standing water or rot inside the cupboard, and that she has not been made aware of any issue regarding wood rot in the cupboard.

Seventh, I.I. testified that a broken window latch has been repaired.

Eighth, I.I. testified that sharp edges on a low bed have resulted in injuries and time off work for I.I. However, I.I. acknowledged that the bed was replaced at the Tenant's expense in or about February 2016 and submitted a Sears receipt in support.

In reply, the Landlord testified that the low bed was provided with the tenancy and that the Tenant accepted the tenancy in any case. In addition, the Landlord testified that the Tenant was reimbursed for the bed and submitted an email and a bank statement in support. The Landlord submitted that any injuries to a guest or house-sitter of the Tenant are the Tenant's responsibility and that he should have insurance.

Finally, the Tenant sought to recover the filing fee.

Analysis

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

Section 32(1) of the *Act* states:

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.*

[Reproduced as written.]

In this case, the Landlord agreed to repair or replace several items of concern. I order the Landlord to replace the washer and dryer, and to have a handyman address the bathroom toilet and sink within the timeframes as agreed during the hearing and described above.

With respect to the Tenant's claims regarding the bathtub drain and the window latch, I find that these items have been fixed to the Tenant's satisfaction and that no order is required.

With respect to the Tenant's claim regarding the broken tile, I find there is insufficient evidence before me to grant an order for repair. Specifically, the parties agreed the crack was present at the beginning of the tenancy. Although I.I. suggested it can cause further problems, I find there is insufficient evidence that the crack does not comply with health, safety, or housing standards, or makes the rental unit unsuitable for occupation. This aspect of the Tenant's claim is dismissed.

With respect to the Tenant's claim there is rotten wood due to a leak in the bathroom cupboard, I find there is insufficient evidence before me to grant an order for repair. The photographic image did not depict any wood rot. Further, I accept the evidence of the Landlord who testified she has not been made aware of any wood rot in the bathroom cupboard. This aspect of the Tenant's claim is dismissed.

With respect to the Tenant's claim regarding injuries, I find there is insufficient evidence before me to grant an order for repair. The parties agreed the low bed was replaced in 2016. It also appears the cost of the replacement bed was reimbursed by the Landlord although I make no finding in that regard. This aspect of the Tenant's claim is dismissed.

As the hearing was required to obtain the Landlord's commitment with respect to dates of repair, I find the Tenant is entitled to recover the filing fee paid to make the Application. I order that \$100.00 may be deducted from a future rent payment at the Tenant's discretion.

Conclusion

I order the Landlord to comply with the orders regarding repair and replacement described above.

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 29, 2020

Residential Tenancy Branch