



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

This hearing was convened in response to an application by the Tenant claiming an order for emergency repairs pursuant to section 33 of the *Residential Tenancy Act* (the “Act”).

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Issue(s) to be Decided

Is the Tenant entitled to an order for emergency repairs?

Background and Evidence

The following are agreed or undisputed facts: On December 12, 2019 the roof leaked causing an electrical issue with the furnace catching fire. The Tenant immediately reported the issue to the previous landlord. During December 2019 the Tenant discovered a bad smell under the unit and observed feces and toilet paper in the area. The Tenant believes that the toilet is dumping directly under the unit and the Tenant reported the matter to the previous landlord on December 17 and 22, 2019. The Tenant believes that its health is being affected by the dumping of the toilet. The previous landlord did nothing about any of the issues and on March 12, 2020 sold the rental unit to the current Landlord. The Parties disagree that on that date the Landlord was aware of the issues with the unit. On March 13, 2020 the Landlord served the Tenant with a

two month notice to end tenancy for landlord's use. The Landlord or a close family member is to occupy the unit. On March 28, 2020 the Tenant disputed this notice and made claims for emergency and other repairs and for compensation. In a decision dated May 28, 2020 (the "Decision") the Landlord's notice to end tenancy was found to be valid and the Landlord was granted an order of possession for June 31, 2020. The Tenant's claims in relation to the repairs and compensation were severed and the Tenant was given liberty to make another application in relation to the severed claims. In a review consideration decision dated June 8, 2020, the order of possession was set aside pending a review hearing of the Decision that is scheduled for July 20, 2020. The leak, furnace and toilet issues were not addressed until July 2, 2020 when the Landlord had a restoration company inspect the unit. The Landlord has not yet obtained a report from this company but expects it within another day. The restoration company could not conduct a full inspection under the unit as it was blocked by the Tenant's tent and trailer. These items were removed by the Tenant on July 4, 2020. No repairs have been started.

During the hearing the Parties were unable to reach an agreement in relation to repairs to the roof and furnace and the Landlord was ordered to commence repairs to the roof and furnace by July 7, 2020 with completion no later than July 17, 2020. The Parties reached a mutual agreement in relation to further inspection under the unit and in relation to the Landlord's access for repairs to the roof and furnace. The analysis and order in relation to the roof and furnace repairs are set out below the mutual agreement. The Tenant confirms its land line phone number and that this line carries a voice mail option.

The Parties mutually agree as follows:

- 1. On July 7, 2020 the Tenant will provide the Landlord with its key to the unit and on the same day the Landlord will make a copy of that key and return it to the Tenant;**

- 2. The Tenant provides permission to the Landlord to access the unit at any time of the day up to 5:00 p.m. on July 7, 2020;**
- 3. The Landlord will do a final inspection of the area under the unit no later than 5:00 p.m. on July 7, 2020, will obtain a written copy of the inspection report and, on the same day that this report is obtained, the Landlord will provide a copy of that report to the Tenant by email;**
- 4. The Landlord will make repairs to the area under the unit as recommended by the inspection report immediately or as soon as possible thereafter;**
- 5. The Tenant provides permission to the Landlord to access the unit for repairs to the roof and furnace with short to no notice provided by the Landlord; and**
- 6. These terms comprise the full and final settlement of all aspects of the dispute for both Parties.**

Analysis

Section 32(1) of the Act provides that 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.

Section 33(1) of the Act defines "emergency repairs" as 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.

Given the undisputed evidence of the roof leak and furnace fire occurring in December 2019, the lack of any repairs to the leak and furnace and considering that the end of the tenancy has not been determined, I find that emergency repairs are required, and I **order the Landlord to start repairs to the roof and furnace no later than July 7, 2020 with completion no later than July 17, 2020.**

Section 63 of the Act provides that if the parties settle their dispute during dispute resolution proceedings, the director may record the settlement in the form of a decision or order. Given the mutual agreement on access for all repairs and for inspection and repairs to the area under the unit reached during the hearing, I find that the Parties have settled this part of the dispute as recorded above.

Conclusion

The Landlord is ordered to make repairs to the roof and furnace as set out above.

The Parties have settled the remaining disputed issues.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the Act.

Dated: July 07, 2020

Residential Tenancy Branch