



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Eco-World Property Management
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes

OLC, RP, RR, MNDCT

Introduction

This hearing was scheduled to deal with the tenant's application for the landlord to make repairs; comply with the Act, regulations or tenancy agreement; and, authorization to reduce rent payable for repairs not made. Both parties appeared or were represented at the hearing and had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

I confirmed the parties exchanged their respective hearing documents and evidence and I admitted their materials for consideration in making this decision.

Procedural matter

The tenant had submitted and served a Monetary Order worksheet but had not filed or served an Amendment to an Application for Dispute Resolution, as is required under the Rules of Procedure to indicate she was seeking compensation for damaged possessions. The landlord's agent stated she understood the tenant was seeking compensation for the items listed on the Monetary Order worksheet and was prepared to respond to the claims. Having been satisfied the landlord was not unduly prejudiced if I were to amend the Application for Dispute Resolution during the hearing, I amended the tenant's Application for Dispute Resolution during the hearing to include the monetary claim for damaged possessions.

Issue(s) to be Decided

1. Is it necessary and appropriate to issue repair orders and/or orders for compliance?
2. Is the tenant entitled to a further rent reduction?

3. Is the tenant entitled to monetary compensation for damage to her personal possessions?

Background and Evidence

The tenancy started in June 2017 and under the tenancy agreement the tenant is required to pay rent of \$1200.00 on the first day of every month. The rental unit is described as a two bedroom basement or ground level suite and there is a tenanted unit above the rental unit.

The tenant filed a previous Application for Dispute Resolution concerning mould in the rental unit (file number referenced on the cover page of this decision). The previous proceeding was held on April 23, 2020. The Arbitrator presiding over the previous proceeding issued a decision on May 29, 2020 (herein referred to as the previous Arbitrator and previous decision respectfully). In the previous decision, the Arbitrator ordered the following:

- 1. By no later than June 15, 2020, the Landlord shall retain the services of a qualified mould remediation company to assess the moisture and mould issues in the rental unit. The Landlord shall request the mould remediation company to provide a written report of their recommendations and shall provide the report to the Tenant within two days of receipt of the report.*
- 2. By no later than June 30, 2020, the Landlord shall take the recommended steps to remediate the rental unit.*

The previous Arbitrator also concluded the tenant had suffered loss of use of the master bedroom due to mould not adequately addressed by the landlord and awarded the tenant compensation of \$300.00 per month for the months of February 2020 through June 2020. The tenant was permitted to realize the total award of \$1500.00 by withholding it from rent otherwise payable; however, the landlord wrote the tenant a cheque and the tenant cashed the cheque.

In making the Application for Dispute Resolution that is before me, the tenant asserts that the landlord did not comply with the orders issued by the previous Arbitrator in the previous decision. The tenant testified that in late June 2020 repairs commenced and were completed in early August 2020; however, the tenant is of the position the repairs did not sufficiently address the mould issue. The tenant testified the landlord hired the upstairs tenant to make the repairs and he is an electrician (herein referred to as the

repair person). The repair person replaced the bathroom vanity but as for mould on the walls all he did was paint over areas the tenant pointed out to him and he did not investigate or look for any other areas of mould. After the repair person was finished the tenant found more areas of mould. The tenant did not report this new found mould to the landlord before filing this Application for Dispute Resolution as the tenant was of the position the landlord did not sufficiently address her complaints of mould in the past and did not comply with the previous orders issued on May 29, 2020.

The landlord's agent submitted that although the landlord disagreed with the previous Arbitrator's conclusion, the landlord complied with the orders imposed by the previous Arbitrator, including compensating the tenant. The landlord's agent testified that the landlord commenced repairs on or about June 10, 2020 and completed the repairs well before the deadline imposed by the previous Arbitrator. The landlord's agent acknowledged that the upstairs tenant was hired to do the repairs but explained he works for a restoration company and he is familiar with remediating properties. The landlord's agent submitted the repair person did more work than that described by the tenant including removal and replacement of mouldy drywall and removing mould in the bathroom.

The tenant denied that mouldy drywall was removed by the repair person. The tenant stated that she or her child's father were home when the repairs were made and no drywall was removed. I asked the landlord's agent whether an agent for the landlord was present when the repair person performed the work and/or inspected the work of the repair person. The landlord's agent stated the repair person's work was inspected by another agent after the repair person finished.

The parties provided differing views as to the cause or possible causes for the mould formation. The landlord was of the position the mould is the result of the tenant not adequately ventilating the rental unit by opening windows. The tenant testified that she does open the windows every day. The tenant stated there was a leak in the roof previously and although the roof was likely repaired, the water likely penetrated the walls and the wet wall cavities were not rectified. The landlord acknowledged that there had been a roof leak in the past but described the water ingress as a small drip.

The tenant seeks for the landlord to comply with the orders issued on May 29, 2020 by having the rental unit inspected and repaired by a qualified mould professional. In addition, the tenant requests that the rent reduction awarded in the previous decision continue since the mould has not been properly remediated. In addition, the tenant

seeks compensation of \$290.00 for her bookcase and three books that have become mouldy.

The landlord's agent responded that they have already complied with the orders issued on May 29, 2020 and the tenant has already been more than adequately compensated by way of the previous decision and the landlord is of the view the tenant is merely trying to obtain more compensation from the landlord.

Analysis

Upon consideration of everything before me, I provide the following findings and reasons.

With respect to compliance with the orders issued on May 29, 2020, I find the landlord did not did not comply. I make this finding considering:

- The landlord was ordered to obtain the services of a “*qualified mould remediation company*” to assess the moisture and mould issues in the rental unit. The quote and invoice provided by the repair person do not provide any information that would lead me to conclude he is a qualified mould remediation company or professional as his qualifications, training, or certifications are not indicated on any of the documentation provided to me by the landlord. Although the landlord's agent testified the repair person works for a restoration company, there is no indication as to the name of the company and I was not provided a reason the company was not contracted to do the work if in fact the company is a “qualified mould remediation company”. Nor was the repair person called as a witness to describe the qualifications, training or certification in mould remediation he has obtained or describe the services he ordinarily performs for his employer.
- The landlord was ordered to have the mould remediation company “*assess the moisture and mould issues and provide a written report of their recommendations*” and provide the report to the tenant. I am of the view that the person who performed the repairs prepared a quote and invoice for the repairs he proposed to make but that he did not prepare a report with that included an “assessment” of the moisture and mould issues that included a basis for his conclusions. To elaborate: the repair person concluded that the mould was from “internal moisture” in an email he wrote to the landlord's agent; however, he did not describe the reasons or basis for making that finding or describe the tests or inspections he performed. In reading the orders of the previous Arbitrator, I find

the purpose of the requirement to “assess” refers to making a determination of the cause of the mould formation, identify areas affected by mould, identify the tests or basis for the conclusion, and provide recommendations not only to remediate the mouldy areas but to stop the formation of more mould. Further, the purpose of providing a written report to the tenant is to provide assurance that a professional has made a determination and identified how to remediate the problem so that the landlord’s response may be measured. Until such time the cause of the mould formation is determined by a person qualified to make such a determination, and the root cause of the mould rectified, I find it highly likely the mould will continue to form.

In light of the above, I find the landlord has yet to obtain the services of a qualified mould remediation company or professional to assess the cause of the mould and provide recommendations that will properly address the mould problem. As such, I am doubtful that the rental unit has been sufficiently remediated.

In light of the above, I provide the following orders and authorizations:

1. No later than September 15, 2020 the landlord must obtain the services of a qualified mould remediation professional company or individual to determine the existence of mould in the residential property; the location of mould; the location of water ingress (if any) or the reason for excessive moisture (if any); and, the necessary steps to remediate the presence of water ingress or excessive moisture and removal of mould.
2. The landlord must require the mould remediation professional to put its findings in writing, including the basis for its conclusions, and the landlord must give the tenant a copy of the written report within two (2) days of receiving it. The mould remediation professional must describe the qualifications, training or certifications it holds with respect to assessing and providing recommendations concerning mould.
3. No later than September 30, 2020 the landlord must commence the remediation activities recommended by the mould remediation professional and complete them within a reasonably timely manner. Upon completion of the recommended tasks the landlord must notify the tenant in writing that it has completed the recommended tasks and attach evidence that the tasks are completed (such as copies of the paid invoices).
4. The tenant is entitled to a continued rent reduction of \$300.00 per month for the months of July 2020 onwards, until such time the landlord provides the tenant with written notification described in order number 3 above. The tenant’s monthly

rent obligation will return to \$1200.00 for the month immediately following receipt of the landlord's written notification described in order number 3 above.

5. Should the mould remediation professional determine the tenant's actions or lack thereof are causing or contributing to the formation of excess moisture and mould (such as not adequately heating and/or ventilating the rental unit), the tenant is ordered to comply with the recommendations made by the mould remediation professional immediately upon receipt of the mould remediation professional's report.

In recognition that the tenant has been provided a rent reduction for July 2020 and August 2020 in my orders above, and presuming the tenant paid the full rent for those months, the tenant may recover those awards by deducting them from rent due for September 2020 in addition to the rent reduction the tenant is entitled to make for the month of September 2020. In other words, the tenant would be obligated to pay rent of \$300.00 for the month of September 2020 after realizing the rent reductions authorized in this decision. [calculated as \$1200.00 monthly rent - \$300.00 rent reduction awarded for July 2020 - \$300.00 rent reduction awarded for August 2020 - \$300.00 rent reduction for September 2020].

Should the tenant be of the position the landlord has not complied with my orders above, the tenant may make another Application for Dispute Resolution to seek further remedy.

As for the tenant's monetary claim for damaged possessions, I dismiss the claims with leave to reapply. The reason I do not consider the claims at this point is because I have been provided opposing and inconclusive submissions as to the reason for the formation of mould. Upon receipt of the mould remediation professional report, where the reason for the formation of mould will be properly determined, the parties are encouraged to resolve the issue of damaged possessions based on that information. If the tenant remains of the position the landlord is obligated to compensate her for her damaged possessions after receiving the mould remediation report, the tenant may make another Application for Dispute Resolution.

Conclusion

I have issued orders to the parties and I have authorized the tenant to make rent reductions as set out in the analysis section of this decision.

The tenant's monetary claim for damaged possessions is dismissed with 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: August 27, 2020

Residential Tenancy Branch