



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding GREEN TEAM REALTY INC. and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, OLC, FFT; RP, OLC, FFT

Introduction

This hearing dealt with the tenants' two applications pursuant to the *Residential Tenancy Act* ("Act") for:

- an order requiring the landlord to complete repairs to the rental unit, pursuant to section 33;
- an order requiring the landlord to comply with the *Act*, *Residential Tenancy Regulation* or tenancy agreement, pursuant to section 62; and
- authorization to recover the filing fees for both applications, pursuant to section 72.

The landlord's two agents, landlord NW ("landlord") and "landlord JZ," and the two tenants, female tenant ("tenant") and "male tenant" attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses. The landlord confirmed that both landlord agents had permission to represent the landlord company named in this application at this hearing. Landlord JZ did not testify at this hearing. This hearing lasted approximately 57 minutes.

The landlord confirmed receipt of the tenants' application for dispute resolution and notice of hearing and the tenant confirmed receipt of the landlord's evidence. In accordance with sections 88, 89 and 90 of the *Act*, I find that the landlord was duly served with the tenants' application and notice of hearing and the tenants were duly served with the landlord's evidence.

The tenants confirmed that they served their evidence package to the landlord on November 20, 2020 by corporate courier. The landlord stated that he got a notification to pick up mail on November 30, 2020, but he did not pick it up, so he has not reviewed the evidence.

In accordance with sections 88 and 90 of the *Act*, I find that the landlord was deemed served with the tenants' evidence on November 25, 2020, five days after its registered mailing. I notified both parties that I could not consider the tenants' evidence at the hearing or in my decision because it was deemed received late, less than 14 days before the hearing date, contrary to Rule 3.14 of the Residential Tenancy Branch *Rules of Procedure*.

Issues

Are the tenants entitled to an order requiring the landlord to complete repairs to the rental unit?

Are the tenants entitled to an order requiring the landlord to comply with the *Act*, *Regulation* or tenancy agreement?

Are the tenants entitled to recover the filing fees for both of their applications?

Background and Evidence

Both parties agreed to the following facts. This tenancy began on September 29, 2020. Monthly rent in the amount of \$5,500.00 is payable on the first day of each month. A security deposit of \$2,750.00 and a pet damage deposit of \$2,750.00 were paid by the tenants and the landlord continues to retain both deposits. A written tenancy agreement was signed by both parties. The tenants continue to reside in the rental unit, which is a house.

The tenants seek the following items from the landlord, which the landlord responded to during the hearing:

- 1) repair of the mold issue in the wall between the closet hallway and the adjoining powder room in the bathroom and an air quality test;
 - a. the landlord refuses this repair because the drywall was replaced on September 25, 2020, before the tenants moved in, it is not serious to warrant an inspection or air quality test since it costs \$515.00, and it was not part of the deal when the tenants moved in, as per the parties' move-in condition inspection report;
- 2) pest control for the rats in the rental unit and cleanup of the crawl space where rat droppings are present;

- a. the landlord agreed to inspect and have treatments done by December 31, 2020, provided that the landlord can choose its own company, different from the one chosen by the tenant and previously used;
- 3) replacement of the 5th cracked window in the dining room;
 - a. the landlord does not want to replace the window with tempered glass because it costs \$5,000.00 but would rather put up drywall instead;
- 4) cleaning of the vents due to rat droppings;
 - a. the landlord refuses this item because the landlord already cleaned the vents three times before the tenants moved in;
- 5) replacement of the cracked laundry mirror on the sliding door;
 - a. the landlord refuses a replacement and only agrees to repair this mirror to prevent further cracks, since it is not related to health or safety, and the landlord never promised to fix it for the tenants;
- 6) replacement of the broken heating system fan (preventing heat) and UV light;
 - a. the landlord agreed to inspect and repair by December 31, 2020.

Analysis

Sections 32 and 33 of the *Act*, state the following with respect to regular and emergency repairs at a rental unit:

Landlord and tenant obligations to repair and maintain

32(1) 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.

Emergency repairs

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 find that mold may affect the health and safety of the tenants and that the landlord is responsible for this work to be done, including an air quality test.

I order the landlord, at its own cost, to have a qualified, licensed professional inspect the wall between the closet hallway and the powder room in the bathroom, to determine whether there is mold by December 31, 2020 and to repair and/or replace this area, if recommended by the professional, by January 31, 2021.

I order the landlord, at its own cost, to have a qualified, licensed professional perform an air quality test of the area of the wall between the closet hallway and the powder room in the bathroom, to determine whether it is safe and habitable for the tenants, by February 15, 2021.

I order the landlord, at its own cost, to have the rental unit inspected by a qualified pest control professionals by December 15, 2020, and to complete pest control treatments, cleaning of the crawl space for rat droppings, and cleaning of the vents for rat droppings, if recommended by the professionals, by December 31, 2020. The landlord agreed to perform a pest control inspection and treatment by December 31, 2020, during this hearing.

I order the landlord, at its own cost, to have a qualified, licensed professional inspect the cracked 5th window in the dining room and the cracked laundry mirror of the sliding door by December 31, 2020, and to repair and/or replace these areas, if recommended by the professional, by January 31, 2021. The landlord agreed to the laundry mirror repair during the hearing.

I order the landlord to repair or replace the dining room window with a similar glass quality, not a wall, as this is a floor-to-ceiling window area that looks into the backyard, according to the tenants. I find that this broken window is an issue of access and entry into the rental unit, which may affect the health and safety of the tenants.

I order the landlord, at its own cost, to have a qualified, licensed professional inspect the heating system fan and UV light at the rental unit by December 15, 2020 and to repair and/or replace these items, if recommended by the professional, by December 31, 2020. I find that a proper, functioning heating system is an emergency repair, that is required particularly during the colder fall and winter months. The landlord agreed to complete the above by December 31, 2020, during the hearing.

I order the tenants to provide access to the landlord to perform the above inspections and repairs, provided that notice is given by the landlord to the tenants in accordance with section 29 of the *Act*. The tenants are not required to be present for the above inspections and repairs.

If the parties disagree as to whether the inspections or repairs have been adequately completed, they can file an application at the RTB for determination.

As the tenants were successful, I find that they are entitled to recover the \$100.00 filing fee for one of their two applications. It was not necessary for the tenants to file two applications for the same relief, just three days apart on October 16 and 19, 2020. Therefore, their application for one of the \$100.00 filing fees is dismissed without leave to reapply.

Conclusion

I order both parties to comply with the above inspection and repair orders.

I order the tenant to reduce their future monthly rent owed to the landlord by a one-time reduction of \$100.00, for this rental unit and this tenancy, in full satisfaction of the monetary award for one of the filing fees.

The remainder of the tenants' applications is dismissed without 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: December 04, 2020

Residential Tenancy Branch