



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

On October 6, 2020, the Tenants applied for dispute resolution under *the Residential Tenancy Act* (“the Act”) seeking the following relief:

- for an order that the Landlord make emergency repairs to the rental unit.

The Director of the Residential Tenancy Branch has established the expedited hearing process in circumstances where there is an imminent danger to the health, safety, or security of a Landlord or Tenant.

The matter was scheduled for a teleconference hearing. The Tenants and the Landlord were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to present affirmed oral testimony and to make submissions during the hearing.

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 to be Decided

- Are the Tenants entitled to an order that the Landlord make emergency repairs to the rental unit or property?

Background and Evidence

The parties agreed that the tenancy began on October 1, 2020, as a one-year fixed term tenancy. Rent in the amount of \$2,100.00 is due to be paid to the Landlord by the last day of each month. The Tenants paid the Landlord a security deposit of \$1,050.00 and a pet damage deposit of \$1,050.00. The tenancy agreement indicates that water is included in the rent. Both parties provided a copy of the tenancy agreement. Water is included in the rent. The only source of water is from a private well on the residential property.

The Tenant testified that on October 2, 2020 he requested the Landlord to test the water quality after he observed brown water in the bathtub.

The Tenant testified that the Landlord delayed taking action; however, she took a water sample and the test was completed on November 4, 2020.

The Tenant testified that on October 19, 2020 a public health body attended the residential property and conducted their own water test. The results of the test were provided on October 22, 2020.

The Tenant testified that the results of the water test show the presence of coliform bacteria in the water. The Tenant testified that on October 14, 2020 he asked the Landlord to fix the problem and the Landlord has delayed taking any action.

The Tenant testified that on November 18, 2020 he received a copy the water report conducted by the Landlord. The Tenant stated that the Landlords test result shows 200 parts of bacteria in the water which is consistent with the public health test result.

The Tenant testified that both his son and he have gotten rashes on their body that he attributes to the well water. The Tenants are seeking an order directing the Landlord to fix / repair the water problem and provide drinkable water.

In reply, the Landlord testified that on two occasions she offered to install a water filter and the Tenants replied they wanted to wait for the results of the water test. The Landlord testified that the brown color of the water is attributable to sediment and that the water needs to run for a bit.

The Landlord testified that the water testing lab asked her to take another sample which he took on October 5, 2020. She testified that she offered to provide the Tenants with a water dispensary and the Tenants said no thank you. She testified that despite this she dropped off water to the Tenants on October 5, 2020.

The Landlord testified that on October 14, 2020 the day after she received the water test result, she informed the Tenants to boil the water.

The Landlord testified that she looked up the water test results and the recommended level for coliform is zero. She testified that there is also a high magnesium level which causes a rust appearance.

The Landlord testified that she intends to install the filter and water tank this weekend as long as the Tenants provide access.

The Landlord testified that she never received a copy of the health board water test results from the Tenants.

The Landlord testified that they put a filter system on the water line 10 years prior and have not conducted any prior testing of the water because they were living on the property and they had no concerns.

The Tenant raised a concern that the Landlords filter is only a sediment filter which will not deal with coliform.

The Landlord testified that on October 28, 2020 she picked up a filter and water tank and will be installing it. She testified that the filter she purchased was recommended by water specialists and is 99.9% effective.

Analysis

Section 32 of the Act states 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 of the Act provides that “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.

Based on the above, the testimony and evidence of the Tenant and Landlord, and on a balance of probabilities, I make the following findings:

The tenancy agreement provides that water is included in the rent. Water for the rental property comes from a private well. The Landlord is responsible to provide clean and safe drinking water to the Tenants and to maintain the water system.

I have considered whether or not the Landlord has breached the requirement under section 32 of the Act to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a Tenant. I accept the evidence before me that the well water was tested by a laboratory and found to have a higher than recommended coliform count.

I find that an emergency repair to the water system is necessary for the health and safety of the Tenants.

The Landlord has a duty to maintain and repair the water system in a state that complies with health and safety standards. While neither party provided any health or safety standards information for well water systems, I find that it is reasonable to expect that since the Landlord is renting out the residential property, the Landlord would be testing the well water system on a regular basis or recommended schedule.

I accept the Landlords testimony that the Landlord has purchased a UV water filter and water tank and is planning to install the items immediately.

I order the Landlords to have the repairs to the water system completed within two weeks of receiving this Decision. If the Landlord fails to complete the repairs, the Tenants are at liberty to apply for compensation for any loss they experience.

Section 72 of the Act gives me authority to order the repayment of a fee for an application for dispute resolution. I order the Landlord to repay the \$100.00 fee that the Tenants paid to make application for dispute resolution. I authorize the Tenants to withhold the amount of \$100.00 from one (1) future rent payment.

Conclusion

The Tenants' application for an emergency repair order is granted.

I order the Landlords to have the repairs to the well water system completed within two weeks of receiving this Decision.

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 2, 2020

Residential Tenancy Branch