



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding United Revenue Properties
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for an order for emergency repairs pursuant to section 33.

The landlord did not attend the hearing although I left the teleconference connection open throughout the hearing which commenced at 9:30 a.m. and ended at 9:50 a.m. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. I also confirmed from the teleconference monitoring system that the tenant and I were the only ones who had called into this teleconference.

The tenant attended the hearing with an outreach worker, JR. The outreach worker testified he served the landlord with the Notice of Dispute Resolution Proceedings by registered mail on March 5, 2021. The tracking number for the mailing is recorded on the cover page of this decision.

The landlord failed to indicate an address for service on the tenancy agreement, however the tenant's outreach worker testified the address of the landlord was provided to him from the society who originally arranged for the tenancy with the tenant. This society has the landlord's address for service on file and the same address is listed as the landlord's address for service on the tenant's Application for Dispute Resolution. I deem the landlord sufficiently served with the tenant's Notice of Dispute Resolution Proceedings five days after March 5, 2021, or March 10, 2021 in accordance with sections 89 and 90 of the Act.

Preliminary Issue

The tenant stated that the landlord is a limited company, however in his Application for Dispute Resolution, the tenant did not indicate "Ltd" at the end of the landlord's

corporate name. In accordance with section 64(3), I amended the landlord's name to the one reflected on the cover page of this decision.

Issue(s) to be Decided

Should the landlord be ordered to perform emergency repairs to the roof of the building?

Background and Evidence

While I have turned my mind to all the documentary evidence, including photographs, diagrams, miscellaneous letters and e-mails, and the testimony of the parties, not all details of the respective submissions and / or arguments are reproduced here. The principal aspects of the tenants' claim and my findings around each are set out below.

A copy of the tenancy agreement was provided as evidence. The tenancy began on April 15, 2012. Rent was originally set at \$1,050.00 per month and a security deposit of \$525.00 was collected from the tenant.

The tenant gave the following undisputed testimony. There are two holes in his ceiling. The first one was caused approximately 8 months ago when the tenant found he was unable to access his unit because the door was wedged into the frame by what the tenant assumes was an earthquake or tremor. The tenant decided to crawl through an attic access panel located outside his unit, then crashed through the ceiling of his unit to get inside. The tenant acknowledges there was no access panel into his unit, so he created his own by breaking through the ceiling.

The second hole was caused by a leaking roof. The tenant lives on the second (top) floor of the building. Approximately 6 months ago, the tenant was sleeping, and a brick dropped onto the floor, through the ceiling. Later that night, a 3' by 3' ceiling tile fell down and had visible signs of black mold. The tenant testified that when it rains, the water falls through the holes in the ceiling. The tenant had to put pots under the drips to collect the water.

An advocacy group provided a letter to the landlord on January 13, 2021 indicating there is an urgent repair issue requiring immediate attention. The exact nature of the emergency repair was not mentioned in this letter however it states numerous voice messages were left for the landlord. A second letter dated February 8, 2021 states an inspection found:

Large hole in ceiling over bedroom window facing [the street] with several water damaged ceiling tiles broken, rotting and hanging loose that need replacement, Rainwater is entering the space between the

drop-down ceiling and the roof and leaking into the apartment. This suggests that there is a roof leak. The tenant has been using a bucket to collect rainwater that enters the suite through this hole. Above the ceiling tiles, there is clear and extensive evidence of rot and mold with other ceiling tiles in poor condition and needing to be replaced.

This letter was accompanied by a “request for repairs and pest control”. In this request, the tenant seeks the landlord to:

1. Replace rotting and water damaged ceiling tiles located above bedroom window facing [the street]
2. Remove and replace all ship lap, drywall and other structural materials that are moldy and present a health hazard
3. Repair rood (sic) leak that is the cause of rainwater entering the suite through the ceiling and causing mold and mildew.

The tenant also seeks pest control for rats, however the scope of pest control is not within the boundaries of an expedited hearing application for emergency repairs under section 33.

Analysis

33 Emergency repairs

- (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.

The tenant testified there are two holes in the ceiling, one caused by the tenant when he broke through the ceiling when he couldn't access his unit and the second one caused by a leak in the roof.

The first hole was admittedly caused by the tenant when he found himself unable to get into the unit due to it sticking or being out of alignment from a possible tremor or

earthquake. While section 33 requires a landlord to make emergency repairs that are urgent and necessary for the health and safety or for the preservation or use of the residential property, the landlord is not responsible for making repairs to the unit for damage caused by the tenant. The damage caused when the tenant crawled through the attic and broke through the ceiling to get into his unit falls under section 32(3) of the Act which states:

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.

The tenant's application to have the first hole in the ceiling repaired is dismissed without leave to reapply. The tenant is responsible for repairing this damage at his own cost.

The tenant seeks to have the second hole, caused by a leak in the roof, repaired as an emergency repair by the landlord. Here, I accept the tenant's undisputed testimony, together with the provided documentary evidence indicating the roof is leaking and requires urgent, immediate repairs. The landlord did not attend the hearing to provide contradictory testimony or upload any documentary evidence to challenge the tenant's submissions that an immediate roof repair is required.

I order that the landlord repair the roof to a state that complies with health, safety and housing standards required by law. The roof repair must be of sufficient quality to make the residential property suitable for occupation by the tenant. The landlord must likewise replace the rotting and water damaged ceiling tiles caused by the leaking roof, referred to as the "second hole" by the tenant. I order that these repairs be completed on or before June 15, 2021.

Conclusion

Pursuant to section 33 of the Act, the landlord must repair the leaking roof and the hole in the ceiling caused by the leaking roof by June 15, 2021.

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: March 26, 2021

Residential Tenancy Branch