



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Remax Little Oak Ltd
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP RR

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65, and
- an order to the landlord to make repairs to the rental unit pursuant to section 33.

While the tenant attended the hearing by way of conference call, the landlord did not. I waited until 1:43 p.m. to enable the landlord to participate in this scheduled hearing for 1:30 pm. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing. During the hearing, I also confirmed from the online teleconference system that the tenant and I were the only ones who had called into this teleconference.

The tenant testified that the landlord was served with the tenant's application and evidence package by way of registered mail on March 19, 2021. In accordance with sections 88, 89, and 90 of the *Act*, I find the landlord deemed served with the package on March 24, 2021, 5 days after mailing.

Issues

Is the tenant entitled to an order to allow the tenant to reduce rent for repairs, services or facilities agreed upon but not provided?

Is the tenant entitled to an order to the landlord to make repairs to the rental unit?

Background and Evidence

While I have turned my mind to all the documentary evidence properly before me and the testimony of the parties, not all details of the respective submissions and / or

arguments are reproduced here. The principal aspects of this application and my findings around it are set out below.

This month-to-month tenancy began on October 15, 2015. Monthly rent is currently set at \$821.50, payable on the first of the month. The landlord collected a security deposit in the amount of \$362.50, which the landlord still holds.

The tenant testified that she had filed this dispute as she had discovered that her rental unit still had mould issues despite the previous repairs in the rental unit in 2019. The tenant provided the following testimony about the background of the issues. The tenant provided the dispute resolution file number for the previous hearing held on July 25, 2019. At that hearing, a settlement agreement was reached between the parties where the landlord agreed to remediate all moldy areas throughout the rental unit, and the tenant was provided with a one-time rent abatement in the amount of \$551.00. The settlement agreement also notes that the tenant is responsible to continue to pay future rent in full and on time as per the lease.

The tenant testified that she had recently discovered that the rental unit still had mould issues, and the tenant sent an email to the property manager, DL, on February 18, 2021 with photos of the mould in the rental unit. The tenant submitted these photos in her evidentiary materials. The tenant testified that the landlord has not addressed the issues, and replied asking the tenant how long has the tenant had the issue, and asked why the tenant was only informing the landlord now. The tenant testified in the hearing she did not notice the mould in the bedroom until items were moved, exposing the mould. The tenant testified that she had since seen the landlord, but the landlord has made no attempt to perform repairs. The tenant testified that the landlord informed the tenant that she was behind in her rent payments.

The tenant filed a claim for a rent reduction in the amount of her monthly rent, as well as for an order for the landlord to perform repairs.

Analysis

Section 32(1) and (2) of the *Act* outlines the following obligations of the landlord and the tenant to repair and maintain a rental property:

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.

I am satisfied that the tenant provided sufficient evidence to support that the rental unit still contains mould, which has not been addressed.

Given the tenant's undisputed evidence and testimony, I order the landlord to retain the services of licensed tradespeople to inspect and, as required, repair the rental unit to an adequate level of occupancy as set out in section 32 of the Act:

1. I order the landlord to retain the services of a licensed restoration company to inspect, assess and where work is required to repair the rental unit to a state whereby the tenant has access to a safe and healthy internal environment free of mould.
2. I order that the landlord obtain a written report by licensed tradespeople if repairs are not necessary, and provide copies of this report to the tenant within one week of the landlord having received this report.

I order the landlord to undertake these inspections and repairs as soon as possible.

Section 65(1)(c) and (f) of the *Act* allow me to issue a monetary award to reduce past rent paid by a tenant to a landlord if I determine that there has been “a reduction in the value of a tenancy agreement.”

The tenant is seeking a rent reduction due to the landlord's failure to address the mold issue in a timely manner, despite the tenant's requests. The *Act* is very clear about a landlord's obligations to repair and maintain their rental property. I am satisfied that the tenant had informed the landlord of the ongoing mould issue in her rental unit, and instead of addressing or investigating the matter, the landlord had informed the tenant that she failed to pay her rent on time.

The tenant requested a rent reduction equivalent to her entire monthly. In assessing a claim, I first note that the party applying for dispute resolution bears the responsibility of demonstrating entitlement to a monetary award. Based on the evidence before me, I accept that the landlord has failed to address the tenant's repair requests. I find that the landlord failed to provide a reasonable explanation for the delay. Regardless of whether rent is paid on time, as long as the tenancy is effect, the landlord must still fulfill their obligations under the *Act*. In light of the evidence before me, however, I am not satisfied

that the tenant had provided sufficient evidence to support the loss claimed. Accordingly, I dismiss the tenant's application for a rent reduction with leave to reapply.

Conclusion

I order the landlord to retain the services of licensed tradespeople to inspect and, as required, repair the rental unit to an adequate level of occupancy as set out in section 32 of the Act:

1. I order the landlord to retain the services of a licensed restoration company to inspect, assess and where work is required to repair the rental unit to a state whereby the tenant has access to a safe and healthy internal environment free of mould.
2. I order that the landlord obtain a written report by licensed tradespeople if repairs are not necessary, and provide a copy of this report to the tenant within one week of the landlord having received this report.

I order the landlord to undertake these inspections and repairs as soon as possible.

I dismiss the tenant's application for a rent reduction 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: June 18, 2021

Residential Tenancy Branch