



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

This hearing was convened by way of conference call in response to an Application for Dispute Resolution filed by the Tenant on May 12, 2021 (the “Application”). The Tenant applied for an order that the Landlord make emergency repairs.

The Tenant appeared at the hearing with the Advocate and Intern. The Landlord appeared at the hearing. I explained the hearing process to the parties. I told the parties they were not allowed to record the hearing pursuant to the Rules of Procedure (the “Rules”). The Tenant and Landlord provided affirmed testimony.

The Tenant submitted evidence prior to the hearing. The Landlord did not submit evidence. I addressed service of the hearing package and Tenant’s evidence and the Landlord confirmed receipt of these.

The parties were given an opportunity to present relevant evidence and make relevant submissions. I have considered all oral testimony of the parties and the documentary evidence submitted. I have only referred to the evidence I find relevant in this decision.

Issue to be Decided

1. Is the Tenant entitled to an order that the Landlord make emergency repairs?

Background and Evidence

The Tenant testified as follows. There is a verbal tenancy agreement between the parties. The tenancy started July 01, 2020 and is a month-to-month tenancy. Rent is \$850.00 per month due on the first day of each month. The Tenant paid a \$425.00 security deposit.

The Landlord testified as follows. There is no written tenancy agreement in this matter. The Landlord and Tenant came to an agreement about the Tenant living in the rental unit, paying rent and paying a deposit. The Tenant moved in July 01, 2020. The tenancy is a month-to-month tenancy. Rent is \$850.00 per month due on the first day of each month. The Tenant paid a \$425.00 security deposit.

The Tenant confirmed that the following three issues are the issues on the Application:

- Urgent electrical dangers
- Major leaks from electrical light from roof in kitchen
- Several holes in bedroom floor

The Tenant testified as follows. There is water coming through the kitchen light. The light switches in the kitchen are sparking when it is wet and cold. The Tenant is not sure what is causing the light switches to spark. The Landlord has looked at the issues in the kitchen but has never fixed them. The issue in the kitchen is a leak somewhere. The Tenant wants the leak in the kitchen addressed.

The Tenant further testified as follows. The tiles in the bedroom are breaking. There is flooding under the bedroom tiles. Photos have been submitted showing the drainage that was flooding when it was raining. Photos have been submitted showing water coming in under the floor. The Tenant showed the Landlord the issue with the bedroom tiles. Someone needs to address the water issue under the bedroom tiles and then put down proper flooring. The Tenant has tried to talk to the Landlord several times about ongoing issues in the rental unit.

The Advocate made the following submissions. The Tenant is asking that a licensed professional electrician attend the rental unit to assess and repair the issues. The light switches in the kitchen are sparking and the electrical sockets are out such that there is exposed wiring. The Tenant is asking that a professional home repair person attend the rental unit and fix the leak in the kitchen. The photos in evidence show that the leak is extensive. The Tenant does not know the source of the leak.

The Advocate made the following further submissions. The Tenant has put plywood over the broken tiles in the bedroom as a temporary fix. Plywood is not appropriate flooring. The tiles are breaking due to moisture underneath them. The Tenant does not know why there is moisture underneath the tiles in the bedroom. The wood under the tiles looks damp. It appears that water may be leaking into the rental unit from the

driveway. The Tenant can hear water under the floor. A professional is required to assess where the moisture under the bedroom flooring is coming from.

The Advocate made the following further submissions. The Tenant is asking that the requested repairs be done immediately. The issues in the rental unit are a danger to the Tenant's health. The Tenant has requested repairs from the Landlord to no avail. Section 32(1)(a) of the *Act* requires a landlord 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. There was no move-in inspection done. The Tenant only noticed the issues raised once the Tenant lived in the rental unit.

The Landlord testified as follows. There were water drops coming from the ceiling in the kitchen. Someone came and looked at the water leaking in the kitchen. The Landlord does not know who this person was, their name or what company they worked for. The person said there was only a bit of water and that it may be moisture from the heat being turned on. The Landlord followed up with the Tenant about the moisture issue and the Tenant said it was fine.

The Landlord further testified as follows. The Tenant never told the Landlord about the light switches sparking or the exposed wiring in the kitchen. The Landlord is willing to have someone come and look at these issues but not a certified electrician because of the age of the house.

The Landlord further testified as follows. The Landlord agrees tiles in the bedroom are breaking. The Landlord agrees to fixing the floor and having a professional attend to do this. The Tenant only asked the Landlord about buying plywood to put down over the broken tiles. The Tenant has not allowed the Landlord to fix the floor. The Landlord agrees to put down vinyl flooring. The Landlord does not know if there is water or moisture under the bedroom tiles. The house is old. The Landlord does not want to spend too much money to repair the rental unit because the rental unit is being torn down eventually.

In reply, the Tenant testified that they told the Landlord about the water damage and that the moisture issues in the kitchen were ongoing.

The Tenant submitted photos of the issues raised and letters from the Tenant to the Landlord about the issues raised.

Analysis

Pursuant to rule 6.6 of the Rules, it is the Tenant as applicant who has the onus to prove the claim. The standard of proof is on a balance of probabilities meaning it is more likely than not the facts occurred as claimed.

The Landlord's obligations in relation to maintaining the rental unit are set out in section 32 of the *Act* which states:

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...

(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.

Section 33 of the *Act* states:

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 am satisfied based on the testimony of the Tenant, photos and letters that there is a leak in the kitchen such that there is water coming through the kitchen light. I am satisfied that this is an emergency repair.

I am not satisfied the Landlord has adequately addressed the leak in the kitchen given the Landlord testified that someone came and looked at the water issue but did not know who this person was, their name or whether they worked for a company and, if so, which company. In the circumstances, I am not satisfied a qualified professional attended the rental unit to look at the leak in the kitchen.

The parties disagreed about whether the Tenant told the Landlord the leak in the kitchen had been fixed. The Tenant has submitted documentary evidence to support that the Tenant raised the issue of the kitchen leak with the Landlord. The Landlord has not submitted documentary evidence to support that the Tenant told the Landlord there was no longer a moisture issue in the kitchen. In the absence of documentary evidence showing the Tenant told the Landlord there was no longer a leak or moisture issue in the kitchen, I am not satisfied this occurred.

Given the above, and pursuant to section 62 of the *Act*, **I order that the Landlord have a qualified professional attend the rental unit, assess the leak in the kitchen and fix the leak in the kitchen. The Landlord is ordered to have this done within two weeks of the date of this decision.**

The Tenant and Advocate submitted that the light switches in the kitchen are sparking and the electrical sockets are out such that there is exposed wiring. The Landlord was willing to have someone come and look at these issues; however, the Landlord was not willing to have a certified electrician come and look at these issues and mentioned the age of the house. I am satisfied that sparking light switches and exposed wiring should be assessed by a certified electrician and that the age of the house is not relevant to whether the person assessing the issue is a certified electrician or not.

Given the above, and pursuant to section 62 of the *Act*, **I order the Landlord to have a licensed professional electrician attend the rental unit and assess the light**

switches in the kitchen as well as the electrical sockets and exposed wiring and to fix any issues so that there are no safety issues or issues with the use of the light switches and electrical sockets. The Landlord is ordered to have this done within two weeks of the date of this decision.

I accept that the tiles in the bedroom are breaking given the testimony of the parties and the photos in evidence. I do not find this to be an emergency repair; however, I have considered whether an order to repair the tiles is appropriate given the parties agree they are breaking and given I accept that broken floor tiles does pose some safety risks to the Tenant. I accept that there is moisture under the tiles which is causing an issue based on the testimony of the Tenant, photos and letters. Further, I did not understand the Landlord to dispute that there is a moisture issue. I understood the Landlord to say they did not know if there was a moisture issue.

Given the above, and pursuant to section 62 of the *Act*, **I order the Landlord to have a qualified professional attend the rental unit and assess the moisture issue under the bedroom tiles and to fix the issue. I order the Landlord to have a qualified professional attend the rental unit and install proper flooring in the bedroom in place of the broken tiles. The Landlord is ordered to have this done within two weeks of the date of this decision.**

I note that the Landlord's submissions about the house being old and not wanting to spend too much money to repair the rental unit are not valid reasons to not complete the above repairs. Pursuant to section 32 of the *Act*, the Landlord is required to maintain the rental unit. As stated in section 32 of the *Act*, the Landlord's obligation to maintain the rental unit applies whether or not the Tenant was aware of a breach at the outset of the tenancy.

Conclusion

I make the following orders:

1. I order that the Landlord have a qualified professional attend the rental unit, assess the leak in the kitchen and fix the leak in the kitchen. The Landlord is ordered to have this done within two weeks of the date of this decision.
2. I order the Landlord to have a licensed professional electrician attend the rental unit and assess the light switches in the kitchen as well as the electrical sockets and exposed wiring and to fix any issues so that there are no safety issues or

issues with the use of the light switches and electrical sockets. The Landlord is ordered to have this done within two weeks of the date of this decision.

3. I order the Landlord to have a qualified professional attend the rental unit and assess the moisture issue under the bedroom tiles and to fix the issue. I order the Landlord to have a qualified professional attend the rental unit and install proper flooring in the bedroom in place of the broken tiles. The Landlord is ordered to have this done within two weeks of the date of 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 *Act*.

Dated: June 23, 2021

Residential Tenancy Branch