



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, OLC, FFT

Introduction

On March 22, 2021, the Tenants submitted an Application for Dispute Resolution under the *Residential Tenancy Act* (the “Act”) requesting an order for the Landlord to make a repair to the rental unit, for the Landlord to comply with the Act, and to recover the cost of the filing fee. The matter was set for a participatory hearing via conference call.

The Tenant attended the conference call hearing; however, the Landlord did not attend at any time during the 45-minute hearing. The Tenant testified that they served the Landlord with the Notice of Dispute Resolution Proceeding via registered mail on March 25, 2021. The Tenant provided a tracking number and according to the Canada Post website, the Notice of Dispute Resolution Proceedings package was delivered on March 26, 2021. As a result, I find that the Landlord has been duly served with the Notice of Dispute Resolution Proceeding in accordance with Section 89 the Act.

Rule 7.3 of the *Residential Tenancy Rules of Procedure* states if a party or their agent fails to attend a hearing, the Arbitrator may conduct the dispute resolution hearing in the absence of that party, or dismiss the Application, with or without leave to re-apply.

As the Landlord did not call into the conference, the hearing was conducted in their absence and the Application was considered along with the affirmed testimony and evidence as presented by the Tenant.

Issue(s) to be Decided

Should the Landlord be ordered to comply with the Act, in accordance with section 62 of the Act?

Should the Landlord be ordered to complete repairs, in accordance with section 62 of the Act?

Should the Tenants be compensated for the filing fee, in accordance with section 72 of the Act?

Background and Evidence

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.

The Tenant provided the following testimony and documentary evidence:

The tenancy began on November 1, 2020. The monthly rent is \$950.00, and the Landlord collected a security deposit in the amount of \$475.00.

The Landlord's agent attended the rental unit February 9, 2021 to respond to the Tenants' request for repairs to the rental unit. On this date, the Tenant and the Landlord's became involved in an argument and no action was taken regarding the repairs.

The Tenants wrote a letter to the Landlord on March 8, 2021, to formally request, amongst other things, that the Landlord replace a window that was missing in the rental unit and to repair the fridge.

The Tenant submitted a letter from the Landlord's agent, dated March 23, 2021, which included claims that the Landlord was bullied by the Tenant and that the window would be replaced.

The Tenant stated that the Landlord did not follow through with any repairs; therefore, the Tenants had to apply for dispute resolution.

The Tenant stated that, as of today, the repairs have been completed and there is no need to order the Landlord to make repairs.

The Tenant testified that the Landlord's agent yelled, was abusive and used racial slurs when he attended the rental unit on February 9, 2021. The Tenant applied to have the Landlord comply with the Act and requested that the Landlord apologize for his behaviour.

Analysis

Section 32 of the Act sets out the responsibility of a landlord to maintain the rental unit 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 a rental unit, make it suitable for occupation by a tenant.

Section 62(3) of the Act authorizes an arbitrator to make any order necessary to give effect to the rights, obligations and prohibitions under this Act, including an order that a landlord or tenant comply with this Act, the regulations or a tenancy agreement and an order that this Act applies.

In this case, the Tenant acknowledged that there are no outstanding repairs that need to be completed by the Landlord. As a result, I find that this part of the Tenants' Application is dismissed without leave to reapply.

The Tenant provided both testimony and documentary evidence to demonstrate that the Landlord had been abusive during their February 9, 2021 meeting, and that the Landlord felt the Tenant had been abusive during the same meeting.

During the hearing, the Tenant and I discussed options to move forward and how written communications and having another person present during personal contact with the Landlord could be helpful.

As a result of the Tenant's testimony, I find that there is insufficient evidence to prove there is a requirement for the Landlord to be ordered to comply with the Act. As such, I dismiss this part of the Tenants' claim.

Although I have dismissed the Tenants' claim to order the Landlord to complete repairs, I find that the Tenants' original claim had merit as the repairs still had not been completed when the Tenants applied for dispute resolution. As such, I award the Tenants compensation for the filing fee, in the amount of \$100.00, pursuant to section 72 of the Act.

Conclusion

I dismiss the Tenants' Application to order the Landlord to comply with the Act and to order the Landlord to complete repairs to the rental unit.

I authorize the Tenants to deduct \$100.00 from a future rent payment as compensation for the filing fee for this Application, pursuant to section 72 of the Act.

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: July 08, 2021

Residential Tenancy Branch