



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RR, RRP, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenants to have the landlord make repairs to the rental unit, to be allowed to reduce rent for repairs, services or facilities agreed upon but not provided and to recover the cost of the filing fee.

Both parties appeared, gave affirmed testimony, and were provided the opportunity to present their evidence orally and in written and documentary form, and to make submissions at the hearing. Both parties confirmed under affirmation that they were not recording this hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions.

Preliminary Matter

At the outset of the hearing the parties agreed that the landlord has now completed the repair to the rental unit on August 3, 2021. Therefore, I do not need to consider this portion of the tenants' application.

Issue to be Decided

Are the tenants entitled to a rent reduction for repairs, services or facilities agreed upon but not provided?

Background and Evidence

The tenancy began on December 4, 2020. Rent in the amount of \$2,700.00 was payable on the first of each month. A security deposit of \$1,350.00 was paid by the tenants.

The tenants testified that they seek a rent reduction in the amount of \$350.00 per month for each month the repair was not made which was from January 2021 to August 3, 2021 when the repair was made. The tenants stated they calculated this amount based on a two-bedroom unit, with only one bathroom and their unit is a two-bedroom, 2-bathroom.

The tenants testified that when they moved into the property they notice that the exhaust fan in the main bathroom and that the ventilation fan in the hallway were not working. The tenants stated that this is a HRV that heats and cools the premises and removes moisture.

The tenants testified that they notified the landlord's agent JL on December 5, 2020, that the fans did not work, but were told by the landlord's agent that the landlord had no idea why there would be a fan in the hallway.

The tenants testified that they were then directed to contact the building manager, which they did on December 15, 2020. The tenants stated that the building manager had someone attend to look at the problem and the landlord's agent SY was provided a quote on January 14, 2021.

The tenants testified that on January 14, 2021 the landlord's agent SY responded that the work was not approved by the landlord, and that the landlord would fix the bathroom exhaust fan on their own.

The tenants testified that they email the landlord's agent SL on February 22, 2021, asking for an update when the hallway fan would be fixed and the landlord's agent responded that the landlord thinks the fan in the hallway is of no use and that they are not going to fix it.

The tenants testified that this was very inconvenience to them as they would have to open the windows to let moisture out and to have air circulate in the rental unit and because they live on a noisy street with lots of construction this was not ideal and by doing this also interfered with the heating and cooling of the rental unit.

The tenants testified that the landlord only decided to do the repair because they made this application for dispute resolution on April 25, 2021.

The landlord's agent testified that the tenants did not go through the proper process to ask for repairs, they went through the building manager. The agent stated that when

they became aware of the issue it was on January 14, 2021, and at that time they were not the landlord's agent and only provided the quote to the landlord as a courtesy. The agent stated that the landlord gave their consent for them to respond to the email stating that the work was not approved, and that the landlord will arrange to have the repairs done.

The landlord's agent testified that on May 15, 2021, after the landlord received notice of this hearing the landlord appointed them as their agent. The agent stated that they then arranged to have the exhaust fan inspected, and on May 24, 2021, it was determined that the HRV system was broken, not an exhaust fan problem. The agent submits that the landlord did their due diligent to make the repairs within a reasonable time; however, due to Covid and issues with obtaining the part it took until August 3, 2021 to make the repair.

The landlord's agent argue that the tenants have not suffered any loss as rent is comparable with other apartments that do not have an HRV system.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

In this case, I am satisfied that the tenants did notify the landlord's agent JL that there was a problem with the fan in the hallway and bathroom on December 5, 2020. I am also satisfied on the balance of probability that the tenants were referred to the building manager as the landlord nor the landlord's agent knew the purpose of the fan in the hallway, which is reasonable as this is a strata property.

On January 14, 2021, SY received a quote and sent that quote to the landlord and they responded that the work was not approved by the landlord, and that the landlord would make the repairs. On February 22, 2021, SL the landlord's property agent informed the tenants that the landlord would not be making any repairs to the fan in the hallway.

It was not until the tenants filed their application seeking repairs and a rent reduction that the landlord took any steps to rectify the problem. I do not accept that the landlord's agent SL or the landlord were unaware of this issue. Whether there was a lack in communication between the landlord's property manager, the strata building manager and the landlord that is an issue between them. However, clearly on January

14, 2021 the landlord was fully aware of the issue and did nothing until the tenants made their application on April 25, 2021.

While the landlord may have just thought this was an exhaust fan issue and not a HVR problem, I find that highly unlikely as this would have been known to them in the quote provided on January 14, 2021. Further, even if it was an exhaust fan issue the landlord should have taken reasonable steps to fix the problem within a reasonable time. The landlord's property manager was fully aware that there was a problem on December 5, 2020 and the landlord took no action until May 2021, to address the repairs. I find just over seven months is an unreasonable delay.

While I find the amount claimed by the tenants of \$350.00 per month is high because they based this amount on a comparable one-bathroom unit; however, they did not actually lose the functionality of their second bathroom as it was still fully operational.

However, it was an inconvenience to the tenants because in order to have sufficient airflow they had to open the windows to remove condensation and to have adequate airflow. The evidence of the tenants was this was not convenient because they live on a noisy street and there is lots of construction noise.

I do not accept the landlord's agent evidence that the tenants did not suffer a loss because other comparable units, without the HVR command the same rent. The rental unit works on a HVR system and it should be operational at all times as that is the design of the building for heating, cooling, and moisture removal.

Therefore, as I have found the landlord failed to complete the repairs within a reasonable time, I find the tenants are entitled to a nominal rent reduction at the rate of \$100.00 per month from January 14, 2021 to August 3, 2021, which I have prorated for January and August 2021. Therefore, I find the tenants are entitled to the amount of **\$659.67**.

As the tenants were successful with their application, I find the tenants are entitled to recover the cost of the filing fee of **\$100.00** from the landlord.

Based on the above, I find the tenants are entitled to a onetime rent reduction in the amount of **\$759.67**, comprised of the above amounts. I authorize the tenants to deduct the above amount from October 2021, rent in full satisfaction of this award.

Conclusion

The tenants are authorized a onetime rent reduction in the amount of \$759.67, to be deducted from October 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: August 31, 2021

Residential Tenancy Branch