



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 as a result of the Tenant's Application for Dispute Resolution ("Application") under the *Residential Tenancy Act* ("Act"), for an Order for emergency repairs.

The Tenant and two agents for the Landlord, J.C. and P.C. ("Agents"), appeared at the teleconference hearing and gave affirmed testimony. I explained the hearing process to the Parties and gave them an opportunity to ask questions about the hearing process. During the hearing the Tenant and the Agents were given the opportunity to provide their evidence orally and to respond to the testimony of the other Party, until the Agents disconnected from the hearing on their own about half an hour into the hearing.

I reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch ("RTB") Rules of Procedure ("Rules"); however, only the evidence relevant to the issues and findings in this matter are described herein.

Service of the Landlord by the Tenant is an issue before me, as the people attending the hearing for the Landlord denied being the Landlord. The Tenant said that she served the Landlord, [B.D.], in person on August 9, 2021. She said she gave him everything that the BC Service Centre had given her, plus all of her evidence. The Tenant submitted text messages she exchanged with the Landlord(s), which includes the following from B.D.:

Sunday, February 7, 2021

Hello [Tenant], I'm Bobby. I am the half owner of the [rental unit address] house along with [P.C.]. I would like to introduce my self in person. I would like to meet up in person sometime this upcoming week. Please let me know when you are available.

The Tenant advised that "Bobby" is the name this Landlord goes by and he was the

person to whom the Tenant said she served her Notice of Hearing documents and evidence. However, Bobby did not attend the hearing; rather, P.C. and his son, J.C. attended the hearing, because they had also received correspondence about the hearing from the RTB. They said they attended the hearing to make it clear that they are not the Landlord(s). They confirmed that Bobby is P.C.'s brother and J.C.'s uncle.

The Tenant submitted a copy of the tenancy agreement starting on page 35 of her submissions. The Landlord in is identified as [J.C.] Further, the Tenant said she pays her rent by etransfer to the email address that J.C. confirmed was his in the hearing.

In the hearing, J.C. and P.C. denied being the landlords of the residential property. They said they had sold the property to their uncle/brother B.D. ("Bobby") and his wife in April 2021. However, the Tenant said that her contact at the disability office told her the property is owned by a numbered company, and that this company was not sold in April, as J.C. and P.C. suggested in the hearing. The Tenant said that according to her disability contact, the ownership of the residential property has not changed this year.

Based on the Tenant's evidence and the Agents' vagueness, I find it more likely than not that the members of this family are the owners of a numbered company, which includes the residential property as an asset. I find they are all Agents of the Landlord, a numbered company. I find that the Agents were well aware of the hearing and of the Tenant's claims in her Application. I find pursuant to section 71 (2) (b) of the Act that the corporate Landlord was served with the Notice of Hearing documents and the Tenant's evidence on August 9, 2021, when the Tenant served these to its Agent, B.D.

Further section 1 of the Act defines "landlord" as follows:

"landlord", in relation to a rental unit, includes any of the following:

- (a) the owner of the rental unit, the owner's agent or another person who, on behalf of the landlord,
 - (i) permits occupation of the rental unit under a tenancy agreement, or
 - (ii) exercises powers and performs duties under this Act, the tenancy agreement or a service agreement;
- (b) the heirs, assigns, personal representatives and successors in title to a person referred to in paragraph (a);
- ...
- (d) a former landlord, when the context requires this;

[emphasis added]

The Agents did not submit any evidence to the RTB, nor serve any to the Tenant.

The Agents disconnected from the teleconference hearing call during the discussion of the Landlord's identify. As such, from that point on, I had only the Tenant's testimony and documentary evidence to consider in making my Decision.

Preliminary and Procedural Matters

The Tenant provided the Parties' email addresses in the Application and they confirmed these addresses in the hearing. The Tenant also confirmed her understanding that the Decision would be emailed to both Parties and any Orders sent to the appropriate Party.

At the outset of the hearing, I advised the Parties that pursuant to Rule 7.4, I would only consider their written or documentary evidence to which they pointed or directed me in the hearing. I also advised the Parties that they are not allowed to record the hearing and that anyone who was recording it was required to stop immediately.

Issue(s) to be Decided

- Should the Landlord be Ordered to make emergency repairs, and if so, which ones?

Background and Evidence

The Tenant submitted a copy of the tenancy agreement, and in the hearing, she confirmed the following details of the Parties' tenancy. The periodic tenancy began on August 15, 2020, and runs to August 31, 2021, with a monthly rent of \$1,100.00, due on the first day of each month. The Tenant confirmed that she paid the Landlord a security deposit of \$550.00, and no pet damage deposit.

In her Application, the Tenant described the living environment of the residential property is as follows:

The Landlords agreed repeatedly to repairs, then [they say] someone else owns the property – same family. It's now been 11 months. Windows are broken, open or won't closed rotten. None of the appliances worked, oven had mouse nests.

Heaters are not working or are in disrepair. Fridge, washer, dryer, stove ventilation fan, ceiling fan, lights, entrance lock, leaking taps, bathroom, kitchen, whole house mold and water damage. Rodents and bugs. Damaging my property, too. Clothing, food . . . rodents are in the ceiling, walls and floors. Not smoke detectors, no fire extinguishers, broken entry lock when I moved in. Rotten floors, I fell through and broke my ankle. Rotten cupboards. They have created nothing but hardship. They won't provide their information. City ... has me renting an empty lot with no garbage or city services. .

[reproduced as written]

I asked the Tenant what she would like the Agents to do, and she said:

Reimburse the rent – I've lost rent, food, you name it. The floors need to be repaired immediately by a professional, because they are dangerous – I've fallen through already and broke my ankle. The windows need to be replaced because they are rotted. They don't close properly. One was broken open and they screwed it shut, so it was so hot in the summer.

Someone broke in, although the robber had the key to the deadbolt to get in. But because of the lower lock, the door is split right open. He's doing these things to be intimidating.

Ant infestation – they infested everything. They come up from the bathroom floor.

There's a whole bunch of water damage. There is mould – and not having the windows open - it stinks in here.

Nobody ever shows up to fix anything, or nothing that matters. One time they sent an electrician, but I ended up doing a bunch of the work, too, because the electrician left, because he didn't get paid. He left with the electrical things open.

The bathroom issues – mould – maybe it comes from the rain or when someone has a shower. I have asthma, so does my son, so it bothers both of us.

The place was supposed to be painted. He said he was going to come in and rip out the floors and windows, and I had a moving company move everything into a steel box for these repairs. Disability paid for one of these times, but I had to pay for another time. But they didn't show up to do the work.

I painted them with special paint. I couldn't put putty in, because windows were so rotted the putty wouldn't stick. I sanded it all down, and used a special primer, so the window sills look great, except for the one that he broke.

I do nails and I used to repair furniture. The window sills were a lot of work and they told me they would pay me, but they didn't. They said they wanted receipts from me for the windows, but they have all this stuff already, and didn't pay me.

The washer and dryer, the fan over the stove – none of that worked. It kicks and rattles a lot. The fridge, they did bring another used fridge that uses \$50.00 more electricity a month. They brought a broken fridge. I paid a friend to fix the washer in October. He said it's old and broken and you're just going to pay them to have it fixed again.

The stove had dead rats in it. I can't use the oven because there is dead My Mom bought me a convection oven and I bought a little fridge. I bought smoke detectors. I am not leaving those behind either. I have little extinguishers. I had to buy my own stuff. I'm getting my Habitat for Humanity house – might be six months to a year. In the meantime, I have moved everything into the cube and we're mostly in the camper.

The Tenant provided photographs supporting these claims. She also provided text communications between the Parties wherein she repeatedly requested repairs to the above noted deficiencies in the rental unit. The Tenant said that she and her two teenaged sons live in her camper and only using the bathroom and the kitchen of the rental unit.

Analysis

Based on the documentary evidence and the testimony provided during the hearing, and on a balance of probabilities, I find the following.

Section 32 of the Act requires 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 the rental unit, which make it suitable for occupation by the tenant.

Section 33 of the Act sets out what "emergency repairs" means. It says that emergency repairs are "urgent, necessary for the health or safety of anyone or for the preservation

or use of residential property.” The Act also states that emergency repairs are 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 find that the Tenant’s evidence proves on a balance of probabilities that the Agents have failed to maintain the residential property in a condition that meets health, safety and housing standards required by law, contrary to section 32 of the Act. I find that the Agents have not maintained the residential property in a condition necessary for the health or safety of anyone or for the preservation or use of the property, pursuant to section 33 of the Act.

I find that the property is in a state that requires urgent repairs necessary for the health or safety of the Tenant and her sons. The floors are in such poor condition that the Tenant fell through and broke her ankle. The windows will not operate properly, so the security of the unit is compromised, as is the ability to open and close the windows, depending on the time of year. The door locks are defective, the appliances inoperative. The Tenant’s photographs show ants crawling in large numbers throughout the rental unit. I find that the residential property requires emergency repairs.

The condition of the rental unit is so compromised that the Tenant and her two teenaged sons live in her camper and only using the bathroom and the kitchen of the rental unit. I find that the Tenant’s label of the Agents as “slum lords” is appropriate, based on the evidence before me.

- **I Order** that the Agents – at the Landlord’s expense - have a licensed and qualified **flooring** professional(s), from a business in good standing in the community attend the Tenant’s rental unit as soon as reasonably possible, and not more than 30 days after the date of this Decision to inspect and repair the floors in the rental unit;
- **I Order** that the Agents – at the Landlord’s expense - have a licensed and qualified **pest removal** professional(s), from a business in good standing in the community attend the Tenant’s rental unit as soon as reasonably possible and not more than 30 days after the date of this Decision to exterminate the insects, rodents, and any other creatures that are infesting the rental unit;

- **I Order** the Agents – at the Landlord’s expense – to have a licensed and qualified **mould** professional(s) attend the rental unit to determine if mould is present, and if so, to eliminate any mould from the rental unit;
- **I Order** the Agents to give proper written notice of the date and time that the respective professional(s) will attend the rental unit for the above noted appointments in accordance with section 29 (b) of the Act, so that the Tenant may arrange to be home or to have a representative of her choosing present;
- **I Order** that the Agents obtain from the qualified professionals written reports or invoices of the above noted work when it is completed, which identifies the company or professional by name, states the date and time of the work done, lists any deficiencies or malfunctions identified, and any suggestions made for future work needed to be done;
- **I Order** the Agents to provide a copy of these reports/invoices to the Tenant, as soon as reasonably possible and not more than five days after receipt of the report/invoice by the Agents. **To be clear, the Landlord is responsible for paying these invoices with no cost whatsoever to the Tenant;**
- **I Order** the Agents to have any problems or deficiencies identified in the reports repaired as soon as reasonably possible, and in any event, not more than 30 days after the date the professional inspects the rental unit.

Should the Landlord fail to comply with any of the above noted Orders, as written, the Tenant is authorized to deduct **\$100.00 per month** from her rent until the Agents comply with the above noted Orders. If the Agents have not complied with the above noted Orders within six months after the date of this Decision, the rent reduction is increased to **\$350.00 per month** until the Agents comply with these Orders. The rent reductions **only** apply if the Agents fail to comply with the specific Orders noted above.

The Tenant has now lived in the rental unit for over a year, and I find from her evidence that the rental unit was in a dilapidated condition from the start of the tenancy. I find this represents a breach of the Landlord’s responsibility under sections 32 and 33 of the Act to maintain a residential property in a state of repair that complies with health and safety and housing standards required by law; I find the Agents failed to maintain the residential property in a condition which is necessary for the health or safety of the Tenants and for the preservation or use of residential property. I find that the rental unit

is not suitable for occupancy by a tenant, because of the Agents' failure to maintain it.

In addition to the above, and pursuant to section 67 of the Act, I award the Tenant with recovery of **\$1,000.00 from the Landlord**, representing a \$100.00 a month deduction for ten months of the tenancy, during which the Agents should have repaired the residential property. The Tenant is authorized to deduct a total of \$1,000.00 from upcoming rental payments in complete satisfaction of this award.

If the Agents fail to comply with any of the Orders, the Tenant may re-apply to the RTB for further compensation in this regard.

Conclusion

The Tenant's Application seeking Orders for the Landlord to complete emergency repairs is granted, as the Tenant provided sufficient evidence to prove her case on a balance of probabilities. I, therefore, Order the Agents to comply with this Decision and the Orders described above.

The Tenant is awarded **\$1,000.00** from the Landlord, which represents \$100.00 a month for ten of the twelve months the Tenant has lived in the rental unit, notwithstanding the Agents' failure to maintain the residential property in compliance with the Act. The Tenant is authorized to deduct a total of \$1,000.00 from upcoming rent payments in complete satisfaction of this award.

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: September 02, 2021

Residential Tenancy Branch