



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Amacon
and [Tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP

Introduction

The Tenant filed the Application for Dispute Resolution (the “Application”) on November 16, 2021 seeking an order that the Landlord make an emergency repair to the rental unit. The matter proceeded by way of a hearing pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”) on December 14, 2021. In the hearing, I explained the hearing process and provided the attending party the opportunity to ask questions.

The Tenant attended the hearing, and I provided them the opportunity to present oral testimony and make submissions during the hearing. The Landlord did not attend the telephone conference call hearing.

Preliminary Matters

To proceed with this hearing, I must be satisfied that the Tenant made reasonable attempts to serve the Landlord with the Notice of Dispute Resolution for this hearing. This means the Tenant must provide proof they served the document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing, the Tenant stated they sent the notice via registered mail, “expedited”. They provided a tracking number for this transaction, showing received by Canada Post on November 19, and delivery on November 23. This was to the Landlord’s business address. The Tenant was aware of the property manager’s name and addressed the material to that individual.

From what the Tenant presented here on notifying the Landlord of this hearing, I am satisfied they served notice of this hearing in a method prescribed by s. 89(1)(c) of the *Act*. I consider

the document received by the Landlord on November 24, 2021, as per s. 90(a) of the *Act*. The hearing thus proceeded in the Landlord's absence.

The Tenant described in detail the issue they are facing within their unit, in the living room and bedroom, with water leakage requiring daily clean up. I find this issue, described in more detail below, is not urgent, and does not fit within the considerations listed in s. 33(1)(c) of the *Act* that define "emergency repairs." This does not concern heating, locks, or electrical systems. While this is an issue of water and leakage, I find it is not one of "major leaks in pipes or the roof" or "damaged or blocked water or sewer pipes or plumbing fixtures" in the nature of an emergency.

The *Act* s. 64(3) permits me to amend an application for dispute resolution. Given that the Tenant described a repair that is not an emergency, I amend their Application to address their rights and the Landlord's obligation concerning repairs.

Issues to be Decided

Is the Landlord obligated by s. 32 of the *Act* to make repairs to the rental unit as requested by the Tenant?

Background and Evidence

On their Application, the Tenant presented the issue of water leaks coming into the rental unit. Two are in opposite corners in the living room, and one is in a corner in the bedroom. The Tenant uses towels to soak up excess water on a daily basis. At this point they have "run out of towels". They are also using a wet vacuum machine that collects water up to one litre in each corner area. A temporary repair in 2019 did not resolve the issue. The current state of the sitting water and damp carpeting means there is an odour present.

In the hearing, the Tenant set out their communication to the Landlord – primarily the on-site manager -- on this issue:

- The Tenant called the on-site manager on September 17, 2021 on this issue, and after the on-site manager's promise that someone would attend, no one did.
- The Tenant called again to the on-site manager on September 19th, 27th, and 28th.
- An "estimator" arrived on October 20th and visited for around 45 – 60 minutes to inspect the issue. There was no information shared with the Tenant on this visit.

- The response from the on-site manager on November 12th was “okay, we’ll take care of this.”
- Another call on November 15th received no response.
- They spoke to the property manager at head office on November 16, 2021, explained the issue – someone visited on the 17th and assessed the area in the bedroom, but did not inspect the living room areas, as observed by the Tenant on their individual unit camera.
- On November 28th, the Tenant spoke with the on-site manager who provided the name of another serviceperson. The Tenant called that person on November 29th. That person did not visit on December 1st as they stated they would, and the Tenant’s call the following day was not answered.
- The Tenant spoke to the Property Manager on December 7th and put their request in writing into the mailbox. There was no response to this request.

In the hearing the Tenant also described their issue with heat into the rental unit. They made requests for heat in the unit starting in September; however, it was not until December 8th that the Landlord finally sent someone to repair the heat in the rental unit.

The Landlord did not attend the hearing and did not provide documentary evidence in advance; therefore, there is no evidence running contrary to that of the Tenant here.

Analysis

The *Act* s. 32 clearly sets out the Landlord obligations for repairs to the rental unit.

I find the evidence from the Tenant is sufficient to establish that they made the issue of leaking water into separate areas within the unit known to the Landlord on several occasions. While there is some evidence that shows the Landlord communicated to the Tenant the need for repairs, there is no timeline thereof, and from the Tenant’s description I conclude that service technicians are not attending as promised.

I find as fact that the current state of the repairs is incomplete, causing inconvenience and/or disturbance to the Tenant. The clean-up is ongoing and constant, and I conclude the Tenant is at pains to alleviate the problem before it gets worse.

I find the Landlord failed to complete repair duties as required by the *Act*. I order the Landlord to complete these specific repairs involving ongoing leaks in the two separate living areas, and the bedroom.

The Tenant described the Landlord's visits as being unannounced. The Tenant uses a security camera in their unit to monitor whether hired staff or the manager has entered the unit. I remind the Landlord of the provisions of the *Act* s. 29 that strictly prescribe written notice from the Landlord before entry. The Tenant may also give the Landlord permission at the time of entry.

On these repair items, or those requiring attention from the Landlord, I order the Landlord address the issues and communicate with the Tenant on their completion by January 15, 2021.

Conclusion

The Tenant's application for repairs is granted, as set out above. As the Tenant was successful in this application, I find they are entitled to recover the \$100 filing fee paid for this application. I authorize the Tenant to withhold the amount of \$100 from one future rent payment.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: December 15, 2021

Residential Tenancy Branch