



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAP-REIT
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, FF

Introduction

This expedited hearing dealt with the tenant's application for dispute resolution seeking remedy under the Residential Tenancy Act (Act) for:

- an order requiring the landlord to make emergency repairs to the rental unit for health or safety reasons; and
- recovery of the filing fee.

The tenant and the landlord's agent (agent) attended, the hearing process was explained, and they were given an opportunity to ask questions about the hearing process.

The agent confirmed receiving the tenant's evidence and that the landlord did not file evidence.

Thereafter both parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral and written evidence before me that met the requirements of the Residential Tenancy Branch Rules of Procedure (Rules). However, not all details of the parties' respective submissions and or arguments are reproduced here; further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision.

Issue(s) to be Decided

Is the tenant entitled to an order requiring the landlord to make immediate repairs to the rental unit?

Is the tenant entitled to recovery of the filing fee?

Background and Evidence

The tenancy began on December 15, 2020, for a monthly rent of \$2,200.

In support of her application for an order requiring the landlord to make emergency repairs, the tenant stated in their application the following:

Main heat in the apartment hasn't been working since Jan 16th. Been back and forth with emails, phone calls and a visit to the rental office. Sent a big email to a supervisor and other email addresses with no reply. No compensation or talk of from management. No updates to when unit will be fixed and I am being ignored now. Called their head office and was directed to file with the BC Rental board. Temperature in house is 15 degrees. Concrete floors. Very cold.

The tenant confirmed heating was the issue regarding this application. The tenant confirmed that the areas that did not have adequate heating are the living room, dining room, and hallway.

Filed in evidence by the tenant was a service request sent to the landlord, stating the unit was not producing heat at all, showing a "C4" error code after unit had been on for about 10 minutes. The landlord's response that after an investigation into the problem, the landlord would need additional time.

Filed in evidence were additional requests from the tenant to the landlord, with the landlord's responses.

In response, the agent stated that the HVAC company they hired went to the rental unit to investigate the tenant's complaint, and discovered that there was a bigger problem than anticipated. The HVAC company had to order a part for repair, which has not come in yet.

The agent stated that she called several other HVAC companies and was told by all of the companies that they are having the same issues with the delays when ordering parts for repairs.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

Section 33 of the Act requires the landlord to make emergency repairs where they are urgent, necessary for the health or safety of anyone or for the preservation or use of the residential property; and are made for the purpose of repairing the following: major leaks in pipes or the roof, damaged or blocked water or sewer pipes or plumbing fixtures, the primary heating system, damaged or defective locks that give access to the rental unit or the electrical system.

In the situation of a possible emergency repair to a rental unit, I find it the tenant's responsibility to notify the landlord of an issue dealing with an emergency request and a reasonable response from the landlord is to deal with the request promptly.

The evidence here shows that the tenant contacted the landlord through their service request portal regarding the heating, on multiple occasions, and that the landlord provided a written response each time.

While I acknowledge that as of the day of the hearing, the heating has not been repaired, I cannot find this is the fault of the landlord. I accept the landlord's evidence the landlord hired a repair company, who in turned ordered a part needed to make the repair. The landlord also consulted other repair companies, who informed the landlord that they too, had delay issues with ordered parts.

I therefore find any delays are not from the landlord's negligence or inattention to this repair, but simply from dealing with delays in delivery of repair parts now common in everyday life.

While the tenant's evidence shows she is seeking compensation from the landlord, the application for emergency repairs is not a proper request for this type of claim. Tenancy Policy Guideline 51 sets out that monetary claims are not considered for expedited hearings.

As I have found that the landlord acted promptly in dealing with the emergency repair request from the tenant to the extent possible, I find that there is no basis for an order requiring the landlord to make emergency repairs. The landlord is dealing with the situation.

As a result, I dismiss the tenant's application for such an order.

As I have dismissed the tenant's application, I decline to award recovery of the filing fee.

I expect the landlord to complete the repairs as soon as possible under the circumstances outlined, which includes regular contact with the HVAC company and to provide updates to the tenant whenever available. If the landlord fails to ultimately have the repairs made, the tenant is entitled to make another application for emergency repairs.

Conclusion

For the reasons provided, I dismiss the tenant's application for an order for landlord to make emergency repairs, as the landlord has been dealing with those repair requests.

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*. Pursuant to section 77 of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: February 28, 2022

Residential Tenancy Branch