



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP

Introduction

The Tenant filed an Application for Dispute Resolution on January 11, 2022 seeking emergency repairs 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 February 18, 2022.

Both parties attended the conference call hearing. I explained the process and both parties had the opportunity to ask questions and present oral testimony during the hearing.

Preliminary Matter – Landlord evidence disclosure

The Landlord confirmed they received notice of the hearing and the Tenant’s prepared documentary evidence. The Landlord referred to a letter from a roofing company they forwarded to the Tenant. They did not forward the letter as evidence for this hearing to the Residential Tenancy Branch. With the Landlord’s consent, the Tenant via their advocate forwarded a copy of that letter to the Residential Tenancy Branch prior to the end of the hearing. I give this piece of evidence full consideration as it is relevant to the Landlord’s testimony in the hearing.

Preliminary Matter – the nature of needed repairs

The Tenant described two separate ongoing issues within the rental unit. The Tenant forwarded pictures showing the problematic areas within the rental unit well in advance of the hearing. I find one issue is not urgent and does not fit into the considerations listed in s. 33(1)(c) of the *Act* where “emergency repairs” are listed.

The *Act* s. 64(3) permits me to amend an application for dispute resolution. Given that the Tenant described some repairs that are not an emergency, I amend the Application to add their request for regular repairs to the rental unit. Both repair issues receive full consideration with respect to the rights of the Tenant and the obligations of the Landlord 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?

Is the Tenant entitled to an order requiring the Landlord to make emergency repairs for health or safety reasons?

Background and Evidence

Both parties verified the basic details of the tenancy agreement at the start of the hearing. The Tenant pays \$600 per month for the tenancy that started on January 1, 2019.

The Tenant described extant issues needing repair in the rental unit. The urgent issue from the Tenant's perspective was that of the ceiling in the rental unit which was leaking for approximately 2 months at the time of their Application. This caused water to leak through the walls and flooring. They provided photos showing the following:

- a leaky ceiling within the rental unit, posing a problem since the start of the tenancy;
- slime leaks from the ceiling and this shows as stains on the walls in the rental unit
- the floors in the rental unit warp and swell because of excessive moisture
- moisture leads to mould within the rental unit, at the base of the walls as shown in one photo they provided.

The Tenant described the mould issue as being "very fresh when snow and rain came through". The Tenant described the situation as coming from water damage, yet at other times the Tenant's bathroom also leaked. In their Application, they described the

more inclement weather over the last couple of months causing particular issues with water leaking into the rental unit, leading to water damage, and mould issues.

The Tenant made a request for repair to the Landlord via email, on December 30, 2021. The Landlord's response on that date was "Roof carni [sic] repair at this kind of weather. We can return his rent if he wants to move out." Further, to the Tenant's advocate: "Roofer said [cannot] detect the leak until dry weather. Tell ur client find new place once tenant returns key we gladly return his rent."

The Landlord presented that they contacted a roofing company and this company provided that they could not attend to the issue with the current weather still being wet in the winter months. The Landlord noted they spent around \$40,000 on the roof around 10 or 12 years ago. When queried in the hearing, the Landlord noted "it's not a small thing, it's a \$60-70,000 job". They reiterated the need for dry weather to inspect the roof and make any necessary repairs.

For the inconvenience, the Landlord offered rent back to the Tenant for December and January, for \$150. The offer for the same amount into February was refused by the Tenant. The Landlord also offered to end the tenancy with the full refund of the security deposit. The Tenant did not accept any offer to end the tenancy, with a lack of available housing in the area. The Landlord noted they have had no other unit available for the Tenant to move into.

The Landlord made an inquiry to a roofing company who inspected the roof. That company responded to the Landlord on January 31, 2022, stating "The insulation above the concrete is saturated and this is not due with the roofing membrane itself, it is more to do with condensation and moisture due to the cold concrete. We will need better weather before we can trouble shoot any further."

The Tenant's secondary issue they presented in the hearing was that of the door lock on the rental unit. They presented photos showing no doorknob, and the lock ports in the door frame bent out and misshapen. The ceiling in the immediate hallway outside their door is with a large hole. The door frame is coming off, being bent in. This leaves the door "somewhat secure, but easy to push open."

The Tenant has the immediate concern of others who enter the building having an easy entry into their own unit. This even prevents the Tenant from going out, fearful for the security of their personal property within the rental unit.

In the hearing, the Landlord acknowledged there is in fact a lock on the door in the form of a dead bolt. They also noted the building main door has a lock on it, though at the same time acknowledged the RCMP visit the building fairly often.

Analysis

Covering repairs more generally, the *Act* s. 32 provides that a landlord must provide and maintain residential property in a state of repair that complies with the health, safety and housing standards required by law.

The *Act* s. 33(2) sets out “emergency repairs” as a special category: those that are urgent, necessary for the health or safety of anyone or for the preservation or use of residential property, and made for the purpose of repairing:

- 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 a rental unit; or
- the electrical systems.

I find the evidence from the Tenant is sufficient to establish that they made the issue of leaking water into separate areas within the rental unit known to the Landlord previously. This is borne out by the fact that the Landlord inquired on roof repairs in January 2022.

I find water leaking into the unit is a consistent and ongoing issue, and this interrupts the Tenant’s right to quiet enjoyment. The leaking water issue is not a matter of an emergency repair; I find s. 33 does not apply because this is not a *major* leak in the roof. The Tenant still has a roof over their own head; however, this ongoing issue needs repair.

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

I find the Landlord thus far failed to complete repair duties as required by the *Act*. I order the Landlord to complete this specific repair to the roof of the building structure,

causing ongoing leaks in separate areas in the rental unit. I order the Landlord to address the issues and communicate with the Tenant on their completion by March 31, 2022. The wetter winter months have ended, and the Landlord must avail themselves of the work that is negatively affecting the livability of the Tenant's rental unit. The Landlord is not permitted to end the tenancy or urge the Tenant to move elsewhere because of this difficulty.

I find the lock on the rental unit door is a more urgent issue requiring immediate repair. The Tenant has shown through their evidence and the description that there are damaged or defective locks, owing to the broken and bent doorframe. This does not ensure compliance with common safety standards. I find there is a continual risk of non-invited others forcing their way into the Tenant's own rental unit. This has prevented the Tenant from entering and exiting their own rental unit in a normal fashion, and it is not inconceivable that this is also having an ill effect on their own health.

I so order the Landlord to repair the doorframe and replace the doorknob and deadbolt for the Tenant's own safety. I order that they do this within 5 days of receiving this decision.

Conclusion

The Tenant's Application for repairs is granted, as set out above.

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: February 23, 2022

Residential Tenancy Branch