



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding 356406 BC LTD
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, RP, RR, MNDCT, FFT

Introduction

This hearing was convened in response to an application by Tenant DP pursuant to the *Residential Tenancy Act* (the “Act”) for Orders as follows:

1. An Order for emergency repairs - Section 33;
2. A Monetary Order for compensation - Section 67;
3. An Order for a rent reduction - Section 65; and
4. An Order to recover the filing fee for this application - Section 72.

The Parties were each given full opportunity under oath to be heard, to present evidence and to make submissions.

Preliminary Matters

Tenant TB has made an application with a hearing scheduled for May 3, 2022, at 9:30 a.m. This application seeks orders as follows:

1. An Order for repairs - Section 32;
2. An Order for a rent reduction - Section 65;
3. A Monetary Order for compensation - Section 67; and
4. An Order for the recovery of the filing fee - Section 72.

The Parties agree that Tenant TB’s application should be joined with Tenant DP’s application and heard together as the Landlord is the same, the units are in the same building, the claims are the same and the matters are related. Given the Parties

agreement and accepting that each of the Tenants are seeking repairs to their unit that are related to the same issues I join Tenant TB's application for this hearing. Tenant TB was given full opportunity under oath to be heard, to present evidence and to make submissions.

All Parties confirmed receipt and exchange of their evidence packages. All Parties confirm that no recording devices are being used for the hearing.

Rule 2.3 of the Residential Tenancy Branch Rules of Procedure provides that claims made in an application must be related to each other and unrelated claims may be dismissed with or without leave to reapply. As the compensation and rent reduction claims are not related to the matter of whether the Tenants are entitled to repairs, I dismiss these claims on each of the Tenants' applications with leave to reapply. Leave to reapply is not an extension of any limitation dates.

Issue(s) to be Decided

Are the Tenants entitled to an order for repairs?

Are the Tenants entitled to recovery of their respective filing fees?

Background and Evidence

The following are agreed or undisputed facts: the tenancy for Tenant DP started on July 1, 2020, with rent of \$1,600.00 payable on the first day of each month. The tenancy for Tenant TB started on June 1, 2020, with rent of \$1,980.00 payable on the first day of each month. Both units have water issues and Tenant DP's unit has evidence of mold spores in the air.

The Landlord agrees to inspect the adjoining wall between the units, including the pipes, for the presence of mold in the walls and to assist in the determination of mold and humidity creation in Tenant DP's unit. The Landlord agrees to make the required repairs following this inspection. The Landlord agrees to make repairs to Tenant TB's

unit for the water ingress through the patio door. The Landlord states that the repairs for both units will start March 9, 2022 and will end March 16, 2021. The Landlord agrees to provide the Tenants with a workplan for the inspection and repairs as well as a final report on the inspection and work done to each unit. The Landlord will provide that workplan to the Tenants today. The Landlord does not agree to take measures to protect the Tenants' belongings during the repairs but will provide Tenant DP with a storage locker for any of its belongings as this unit will need to be empty for the repairs. The Landlord states that Tenant TB's unit does not require any vacancy for the repairs as they are limited to the water ingress from the patio door area.

The Tenants do not agree with the company the Landlord is choosing to make repairs as they do not believe that the company is qualified to carry out mold testing and remediation. The Tenants base this belief on no such identification of these qualifications on the company's website. The Tenants want the Landlord to have the inspection and work done by a civil engineering firm as the Tenant does not believe that the Landlord will act sufficiently as they have not done so to date. The Landlord states that the Tenants are only making assumptions about the company and that the company is qualified to carry out the work.

The Tenants seek an envelope study done of the building. The Tenant states that in the last few days the Landlord has been opening walls in the common areas that has been subject to work safe directives and that this activity by the Landlord is evidence of a systemic problem. The Landlord states that there is no evidence that any other unit in the building has any similar problems and that an envelope study is beyond the scope of what is required.

Analysis

Section 32(1) of the Act provides that a landlord must provide and maintain residential property in a state of decoration and repair that

(a)complies with the health, safety and housing standards required by law, and

(b)having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

There is no dispute that each of the units and the adjoining wall between the unit requires inspection and repairs. Given the Landlord's agreement to conduct an inspection and make repairs to the units starting March 9, 2022 and ending March 16, 2021, I find that the Tenants have substantiated that repairs are required as promised. Given the Landlord's agreement to provide a work plan for the inspection and repairs as well as a final report on the inspection and work done to each unit, I find that the Tenants have substantiated an entitlement to the workplan, and final report as promised. Although the Tenants are seeking an order that the Landlord not use the company that the Landlord plans to use, I consider that the Tenants are making only assumptions about the company's qualifications to carry out that work and I decline to order the Landlord to not use the company of its choice. However, I find that the Landlord must use a duly qualified company for the inspection and repairs.

Although the Landlord does not agree that they are responsible for the protection of the Tenants' belongings while repairs are being made, as there is no evidence that the Tenants are responsible for having caused the inspection and repairs to be required, I consider that the Tenants cannot be held responsible for any conduct of the inspection or repairs that may affect their belongings.

As the Tenants have not provided any supporting evidence that other units in the building are damaged or require repairs due to the same issue arising in the Tenants' units, I find that the Tenants have not substantiated an entitlement to an envelope study.

Given the above I order the Landlord to act as follows:

1. To conduct an inspection and have required repairs made to the units starting March 9, 2022 and ending March 16, 2021;

2. To ensure that the inspection and required repairs are undertaken by a qualified company or person;
3. To immediately provide a work plan for the inspection and repairs to the Tenants;
4. To provide a final report on the inspection and work done to each unit as soon as possible after the completion of the repairs to the Tenants; and
5. To take reasonable steps to ensure that the Tenants' belongings are not damaged during the inspection or repairs.

As the Tenants have been successful with their claims for repairs, I find that the Tenants are entitled to recovery of their respective filing fees of **\$100.00** and the Tenants may deduct this amount from their future rents payable in full satisfaction of these claims.

Conclusion

The Landlord is ordered to conduct an inspection and make repairs.

I grant Tenant DP an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

I grant Tenant TB an order under Section 67 of the Act for **\$100.00**. If necessary, this order may be filed in the Small Claims Court and enforced as an order of that Court.

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

Dated: March 09, 2022

Residential Tenancy Branch