



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **FFT, RR, RP**

Introduction

This hearing dealt with the Tenant's application pursuant to the *Residential Tenancy Act* (the "Act") for:

1. An Order to reduce rent for repairs, services or facilities agreed upon but not provided pursuant to Section 65 of the Act;
2. An Order for repairs to the unit, I have contacted the Landlord in writing to make repairs but they have not been completed pursuant to Section 32 of the Act; and,
3. Recovery of the application filing fee pursuant to Section 72 of the Act.

The hearing was conducted via teleconference. Two Landlords, WS and JSJL, and one Tenant, FED, attended the hearing at the appointed date and time. Both parties were each given a full opportunity to be heard, to present affirmed testimony, to call witnesses, and make submissions.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch (the "RTB") Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they were not recording this dispute resolution hearing.

FED confirmed that they served the Landlords with the Notice of Dispute Resolution Proceeding package for this hearing on March 7, 2022 by email (the "NoDRP package"). The two Landlords who attended this hearing confirmed receipt of the NoDRP package by email on March 7, 2022. I find that the Landlords were served with the NoDRP package for this hearing on March 7, 2022, in accordance with Section 43(2) of the Residential Tenancy Regulation.

Issues to be Decided

1. Are the Tenants entitled to an Order to reduce rent for repairs, services or facilities agreed upon but not provided?
2. Are the Tenants entitled to an Order for repairs to the unit that remain uncompleted?
3. Are the Tenants entitled to recovery of the application filing fee?

Background and Evidence

I have reviewed all written and oral evidence and submissions before me; however, only the evidence and submissions relevant to the issues and findings in this matter are described in this decision.

The parties confirmed that this tenancy began as a fixed term tenancy on June 1, 2021. The fixed term ends on May 31, 2022, then the tenancy will continue on a month-to-month basis. Monthly rent is \$1,900.00 payable on the first day of each month. A security deposit of \$950.00 was collected at the start of the tenancy and is still held by the Landlords.

The tenancy agreement states that water, natural gas, sewage disposal, recreation facilities, garbage collection, recycling services, free laundry, refrigerator, dishwasher, stove and oven, furniture, parking for one vehicle, a fob key, a garage key and a mailbox key are included in the rent.

On June 20, 2021, the Tenants reported that the kitchen sink was leaking. A handyman was sent to repair the leak, but as of the hearing date, it was still leaking. In August 2021, the Tenants also reported that the rubber seal on the fridge door was all ripped. The handyman who was called in repaired the rubber seal with duct tape.

On July 9, 2021, the Tenants reported that there were issues with the dryer's functionality. The Tenant said there was no air flow coming out of the dryer, and he noted that the ceiling booster fan in the ceiling above the dryer was not working. By August 11, 2021, the dryer was still not working. A new dryer was installed on August 18, 2021, but with the Tenants first use of the dryer, they reported it took four hours to get their clothes dry. The Tenant thought it was because the booster fan above the dryer was clogged. The Landlord said they talked to the building manager to check the

booster fan, and building manager told the Landlords the fan was fine. As of the hearing date, the dryer was not working optimally.

On June 15, 2021, the Landlords installed a new washing machine. By November 14, 2021, the washer had stopped doing the high spin cycle at the end of the washer load. The clothes were coming out of the washer very wet. The Tenants reported these problems to the Landlords on November 20, 28 and December 7, 2021. As of the hearing date, the washing machine was still not working properly.

Tenant FED testified that the whole building is ant infested. FED stated they have found Pharaoh ants in their bedroom, kitchen and washrooms. FED said they are professionals and they properly clean their rental unit. FED testified that the rental unit has been treated by a pest control company which was sent by the strata building manager, but the ants are still a problem.

Landlord JSJL testified that getting delivery of appliances during Covid has been a challenging task. The washer and dryer can only be front loading machines, and JSJL stated it took much time to find the right styled machines. JSJL said in November 2021, he replaced appliances, but also stated that the appliances were being misused. JSJL said a handyman was sent in to repair the sink, and after the handyman was sent, he heard nothing more of it, so he thought it was fixed. JSJL stated he was "*pretty sure*" the ants were not there when the Tenants moved in. He knows that a pest control company has been sent in to treat the rental unit.

Landlord WS said the Tenants repeatedly call them in for repairs. The dryer has presented lots of complications and adjustments. WS maintained that if the Tenants put too much clothing in the machine, it will not work properly. As far as the ant problem goes, WS stated that the Tenants do not know how to clean the rental unit. WS said if he is ordered, he will send someone in to repair the kitchen sink. WS also said a repairman was sent two times for the dryer, and he was told it was repaired.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim.

Section 32 of the Act sets out the obligations of landlords and tenants to repair and maintain rental units. Section 32(1) of the Act states a landlord must provide and maintain residential property 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, makes it suitable for occupation by a tenant. While Section 32(2) of the Act specifies that tenants must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit.

Section 27(1) of the Act states that a landlord must not terminate or restrict a service or facility if (a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or (b) providing the service or facility is a material term of the tenancy agreement.

Laundry facilities are included in the rent for this rental unit. The only alternative laundry facilities are going to a public laundromat, this is not a reasonable substitute for this family. I find these facilities are a material term in the tenancy agreement for these parties, the Tenant made it clear these are required facilities for him and his family. The washing machine stopped spinning the excess water in the last spin cycle since November 14, 2021. The Tenant asserts that the dryer has not operated efficiently since July 9, 2021. The Landlords installed a new, or newly refurbished, dryer in the rental unit, but additionally the ceiling booster fan is not operational so air flow through the dryer duct is hampered. It is taking four hours to dry one load of laundry which is excessive. The Tenant said both of these machines are not working effectively. I find that both of these facilities are included in the rent in this rental unit, so the Landlord must repair them.

I Order the Landlords to repair both the washing machine and the dryer inclusive of the booster fan by April 29, 2022. If the repairs are not completed by the end of April 2022, pursuant to Section 65(1)(f) of the Act, the Tenants' rent is reduced by \$100.00 per month until the repairs are completed.

The kitchen faucet was leaking when the Tenants first moved into the rental unit. One handyman came into the rental unit and did some repairs, but the kitchen faucet is still leaking. I Order the Landlords to hire a handyman or plumber to repair or replace with new the kitchen faucet, whichever is financially better for them by April 29, 2022. If the faucet is not repaired or replaced by the end of April 2022, pursuant to Section 65(1)(f) of the Act, the Tenants' rent is reduced by \$100.00 per month until the repair or replacement is completed.

The Tenants reported that the fridge rubber seal was repaired with duct tape by the Landlords' handyman. I Order the Landlords to hire a handyman to replace the duct tape and old rubber seal on the fridge with a new rubber seal by April 29, 2022. If the rubber seal is not replaced by the end of April 2022, the Tenants' rent is reduced by \$50.00 per month until this replacement is completed.

The Tenants report that the building is infested with ants. The Tenant stated they have found ants in their bedroom, kitchen and washrooms. The strata property manager has previously sent pest control to exterminate the ants. The ants are still present. Pursuant to Section 32(1) of the Act, I Order the Landlord to contract with a pest control company to exterminate the ant infestation. RTB Policy Guideline #21 states that generally repairs to the interior of a strata lot are the responsibility of the owner or lessor. Where the strata corporation may be liable for the cost of the repair, the landlord may make a claim against the strata corporation in the appropriate forum. Further to Section 32(2) of the Act, the Tenants must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit. Tackling this ant infestation will be a joint effort for both parties.

As the Tenants are successful in their claim, they are entitled to recovery of the application filing fee. The Tenants may, pursuant to Section 72(2)(a) of the Act, withhold \$100.00 from next month's rent due to the Landlord.

Should the Landlords fail to comply with these Orders, the Tenants are at liberty to apply for dispute resolution and request further financial compensation for their losses. I make no finding on the merits of any future possible application in this regard.

Conclusion

The Landlords are Ordered to repair both the washing machine and the dryer by April 29, 2022. If the laundry facilities are not repaired by the end of April 2022, the Tenants' rent is reduced \$100.00 per month until the laundry facilities are repaired.

The Landlords are Ordered to repair or replace the kitchen faucet by April 29, 2022. If the kitchen faucet is not repaired or replaced by the end of April 2022, the Tenants' rent is reduced \$100.00 per month until the kitchen faucet is repaired or replaced.

The Landlords are Ordered to replace the duct tape and old rubber seal on the fridge with a new rubber seal by April 29, 2022. If the rubber seal on the fridge is not replaced by the end of April 2022, the Tenants' rent is reduced \$50.00 per month until the rubber seal on the fridge is replaced.

The Landlords are Ordered to bring in a pest control company to deal with the ant infestation in the rental unit by April 29, 2022.

The Tenants may withhold \$100.00 from next month's rent due to the Landlord to recover their application filing fee.

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: April 06, 2022

Residential Tenancy Branch