



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP, RR, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution made on January 10, 2022. The Tenant applied for the following relief, pursuant to the Residential Tenancy Act (the "Act"):

- an order that the Landlords make repairs to the unit, site, or property;
- an order reducing rent for repairs services or facilities agreed upon but not provided; and
- an order granting recovery of the filing fee.

The Tenant attended the hearing on her own behalf. The Landlords were represented at the hearing by YZ, an agent. Both the Tenant and YZ provided a solemn affirmation.

The Tenant testified the Landlords were served with the Notice of Dispute Resolution Proceeding package by leaving with the concierge at the rental property. The Tenant was unable to recall the precise date. However, YZ testified that the documents were received and that the Landlord had sufficient time to review and consider them. Pursuant to section 71 of the Act, I find these documents are sufficiently served for the purposes of the Act.

The Landlords submitted documentary evidence in response to the application. However, YZ confirmed that these documents were not served on the Tenant. The Tenant confirmed they were not received. Therefore, as they were not served on the Tenant in accordance with sections 88 and 90 of the Act, I decline to consider the Landlords' documentary evidence.

The parties were advised that Rule of Procedure 6.11 prohibits the recording of dispute resolution hearings. The Tenant and YZ confirmed they were not recording the hearing.

No further issues were raised with respect to service or receipt of the above documents. The parties were given an opportunity to present evidence orally and in written and documentary form, and to make submissions to me. I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence relevant to the issues and findings in this matter are described in this Decision.

Issues to be Decided

1. Is the Tenant entitled to an order an order that the Landlords make repairs to the unit, site, or property?
2. Is the Tenant entitled to an order reducing rent for repairs services or facilities agreed upon but not provided?
3. Is the Tenant entitled to an order an order granting recovery of the filing fee?

Background and Evidence

The parties agreed the tenancy began on October 1, 2021. Rent in the amount of \$2,100.00 per month is due on the first day of each month. The Tenant paid a security deposit of \$1,050.00, which the Landlords hold. A copy of the tenancy agreement was submitted into evidence.

The Tenant sought an order that that the Landlords make repairs to the unit, site, or property. The Tenant testified that she noticed issues with the rental unit upon moving in. These issues were also described in written submissions.

The Tenant testified that the fire alarm was beeping all day and night when she moved in. She confirmed that the Landlords repaired this issue on October 5, 2021.

In addition, the Tenant testified the heater was not working when she moved in. A copy of a text message dated October 6, 2021, indicates that the Landlords were advised of these issues on that date. The Tenant testified the issue was addressed on October 27, 2021.

Further, the Tenant testified that kitchen lights did not work properly and were making noise. A copy of a text message dated October 6, 2021, indicates that the Landlords were advised of these issues on that date. However, the Tenant testified that it was repaired by November 12, 2021.

The Tenant also testified there were also issues with the bathroom fan, the garburator, and a sink. A copy of a text message dated October 6, 2021, indicates that the Landlords were advised of these issues on that date. The Tenant testified these were repaired by November 22, 2021.

The Tenant also testified the dishwasher was not working properly during the tenancy. The Tenant testified that “smelly water” would accumulate on the bottom. Although the Landlords’ handyman fixed it on November 22, 2021, the repair only lasted a few days. It remained unfixed until the Tenant paid \$80.00 for a handyman to attend on or about December 19, 2021.

The Tenant testified that other issues arose during the tenancy. The Tenant described a “thick layer of unknown things” on the ceiling in the laundry room. The Tenant acknowledged it may not have been mold. In addition, the Tenant testified that the laundry room door was not attached. The Tenant testified these issues were resolved on or about January 20, 2022, after the application was made.

The Tenant testified the above issues resulted in the Tenant having to stay with friends for several days.

With respect to the Tenant’s claim for a rent reduction, the Tenant testified that she feels like the situation is unfair. In written submissions, the Tenant stated that the “emotional damage...is more than the money to repair”. She stated she feels that one month’s rent is a reasonable amount for the inconvenience and for the cost of the handyman she paid to resolve the dishwasher issue.

In reply, the Landlord’s agent testified that all repairs requested by the Tenant were addressed as quickly as possible. The Landlords’ process for making repairs is to forward the request to the Landlord TH, who then instructs the Landlords’ agent. The Landlords’ agent then hires a handyman to complete the repair. YZ testified that process may have contributed to slight delays.

On behalf of the Landlords, YZ testified that the Tenant's monetary claim is unreasonable, and that the Landlord tries to respond to requests for repairs as quickly as possible

Analysis

Based on the documentary evidence and oral testimony provided during the hearing, and on a balance of probabilities, I find:

Section 32(1) of the Act confirms that 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.

In this case, the Tenant testified that the repair issues described above have been resolved but that the repairs took longer than they should have. Accordingly, it is not necessary for me to make an order requiring the Landlords to make specific repairs. However, I note the Landlords remain obligated to make repairs in accordance with section 32 of the Act.

Section 65(1) of the Act confirms that the director may reduce past or future rent by an amount that is equivalent to a reduction in the value of a tenancy agreement.

In this case, I find that the Tenant has suffered a reduction in the value of the tenancy agreement. Specifically, I find that the brief amount of time the tenancy was disrupted by the smoke detector, and the loss of use of the dishwasher and garburator in particular, resulted in a reduction in the value of the tenancy. Further, most of the requested repairs – with the exception of repairs to the dishwasher, the laundry room door, and the alleged mold – were addressed by November 22, 2021. I do not accept that the repair issues resulted in “emotional damage” as claimed by the Tenant.

I find the Tenant has not provided sufficient evidence to support the value of the loss. Nevertheless, Policy Guideline #16 confirms that “nominal” damages may be awarded where there has been no significant loss or no significant loss has been proven, but it has been proven that there has been an infraction of a legal right. In this case, I find that nominal damages of \$100.00 are sufficient to compensate the Tenant. As noted above, most of the repairs claimed by the Tenant were resolved within a reasonable time after the Landlord was made aware of them.

Having been successful, I also find the Tenant is entitled to recover the \$100.00 filing fee.

Considering the above, I order that the Tenant made deduct \$200.00 from a future rent payment in satisfaction of the nominal damages award and in recovery of the filing fee.

Conclusion

I order that the Tenant may deduct \$200.00 from a future rent payment in satisfaction of the nominal damages award and in recovery of the 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 Residential Tenancy Act.

Dated: April 11, 2022

Residential Tenancy Branch