



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RP, RR

Introduction

The Tenant seeks the following relief under the *Residential Tenancy Act* (the “Act”):

- An order for monetary compensation pursuant to s. 67;
- An order for repairs under s. 32; and
- An order for rent reduction pursuant to s. 65.

C.T. appeared as Tenant. N.P., who is an articulated student, appeared as the Tenant’s advocate. P.M. appeared as agent for the Landlord.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The Tenant advises that she personally served the Landlord’s agent with the Notice of Dispute Resolution and evidence on March 30, 2022. The Landlord’s agent acknowledges receipt of the Tenant’s application materials. I find that the Tenant served her application materials on the Landlord in accordance with s. 89 of the *Act* and was received on March 30, 2022.

The Landlord’s agent advises that the Landlord’s response evidence was personally served on the Tenant on May 6, 2022. The Tenant acknowledges receipt of the Landlord’s evidence. I find that the Landlord’s response evidence was served on the Tenant in accordance with s. 89 of the *Act*.

Preliminary Issue – Amending the Style of Cause

The Tenant's application lists P.M. as the Landlord. However, the tenancy agreement lists a non-profit entity as the Landlord.

At the outset of the hearing, I clarified P.M. that he was agent for the Landlord. The Landlord's agent confirmed that the non-profit Landlord, as listed in the tenancy agreement, is the correct Landlord. I proposed the style of cause be amended to reflect the Landlord as stated in the tenancy agreement. The Tenant raised no objections with respect to the amendment. Accordingly, I amend the application pursuant to Rule 4.2 of the Rules of Procedure such that the style of cause reflects the Landlord as listed in the tenancy agreement.

Issue(s) to be Decided

- 1) Should the Landlord be ordered to undertake repairs?
- 2) Is the Tenant entitled to a rent reduction?
- 3) Is the Tenant entitled to a monetary order?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. Rule 7.4 of the Rules of Procedure places an obligation on participants to present their evidence at the hearing. I have reviewed the evidence that the parties referred me to in their submissions. Only that evidence which is relevant to the dispute will be referenced in this decision.

The parties confirmed the following details with respect to the tenancy:

- The Tenant took occupancy of the rental unit on April 1, 2019.
- Rent of \$875.00 and parking of \$25.00 is due on the first of each month.
- The Landlord holds a security deposit of \$437.50 in trust for the Tenant.

A copy of the written tenancy agreement was put into evidence by the Tenant that confirms the details listed above with respect to the tenancy.

The Tenant advises that her dishwasher is no longer functioning and has not been functioning since July 27, 2021. The Tenant's advocate referred me to a chronology put together by the Tenant covering the events with respect to the dishwasher, which

indicates the Tenant notified the Landlord of the dishwasher by way of text message to P.M. sent on July 27, 2021. I was advised that the text message was located in the Tenant's evidence, however, I have not located it. In any event, the Tenant's evidence includes a letter dated August 1, 2021 where she notified the Landlord of the repair issue and that she would be deducting \$167.99 from her rent for August 2021 for a technician. Subsequent correspondence dated August 5, 2021 indicates that the dishwasher was working again and the Tenant enclosed a cheque for \$167.99 as the technician was no longer needed. A letter indicating hand delivery on August 6, 2021, however, says that the dishwasher was, once more, no longer functioning.

I was advised by the Tenant that she arranged for a technician to attend the rental unit in September 2021 to see to the dishwasher and that she deducted the cost of the technician from her rent. I am told that the technician recommended to her that the dishwasher be replaced given the overall quality of the appliance, the cost of the repair, and the fact that the repair would have a limited warranty period.

The Tenant argues that the repairs for the dishwasher have been longstanding. I am told the parties had been before the Residential Tenancy Branch in which the Tenant successfully disputed a One-Month Notice to End Tenancy. A copy of the prior decision put into evidence by the Tenant is dated September 2, 2021 and indicates the parties had their hearing on August 23, 2021. The Tenant says her requests dealing with the dishwasher went unaddressed until after the dispute regarding the One-Month Notice was dealt with.

I am told that the Tenant found an alternate dishwasher and told the Landlord that she would purchase it and deduct it from her rent. Correspondence with respect to this is in evidence and the Landlord responded on September 10, 2021 by emphasizing that appliance maintenance, and replacement, was its responsibility. The Landlord indicated that the Tenant was not authorized to purchase appliances and that the Landlord would be taking over appliance repairs.

The Tenant indicates the Landlord had their repairperson attend in October and the second attendance sometime after that. The Landlord's agent did not deny that the repairperson hired by the Landlord first attended in October 2021. The parties advise that the Landlord's repairperson ordered some parts after the October 2021 attendance, that obtaining the parts took some time, and that the repairperson then advised that the Landlord should replace the dishwasher.

The Landlord's agent does not deny that the dishwasher needs replaced and indicates that he has placed an order a new one. I was advised that the residential property is a multi-unit property and that the Landlord is currently dealing with a significant amount of appliance replacements. The Landlord's agent indicates that the Tenant is difficult and demanding. The Landlord's agent argued that it is difficult to obtain technicians and tradespeople in a timely fashion in the community. The Landlord's agent says that he follows the recommendations of the technicians and tradespeople and ordered a replacement dishwasher once he was advised that this would be appropriate by a technician. The Landlord's agent further argued that there are significant delays in obtaining appliances.

The Landlord's agent indicated that two rental units in the residential property required a dishwasher replacement. I am told that three weeks prior to the hearing a dishwasher was available for installation and that the Landlord's agent attempted to arrange for its installation with the Tenant. The Landlord's agent says the Tenant refused and asked to arrange the installation on the Monday. It appears the installer was enroute and, given that the Tenant was not amenable to the timing, the dishwasher went into the other rental unit. The Tenant's advocate acknowledges that occurred on April 22, 2022 but argues that the Landlord provided short-notice on that occasion.

The Tenant asks for the repair or replacement of the dishwasher.

The Tenant also seeks the following rent reductions:

- \$25.00 for past rent reduction for each month the dishwasher has not been functioning (August to May);
- \$25.00 for future rent reduction for each month the dishwasher is not functioning; and
- \$437.50 for past rent reduction for February 2021 and March 2021 (total \$875.00) for the loss of electrical in her living room.

As mentioned above, the dishwasher has not yet been replaced or repaired.

The Tenant further advised that her rental unit had an issue with the electrical circuit in her living room, specifically the circuit breaker kept tripping. I am told by the Tenant's advocate that the Tenant advised the Landlord of the electrical issue first on February 5, 2021. This was done orally. The Landlord's agent does not deny that the Tenant first notified her of the electrical circuit breaker issue in early February 2021. The Tenant acknowledges that the first written notification of the electrical breaker issue was sent to

the Landlord's agent on March 21, 2021 via text message. A copy of the text message is put into evidence.

The Tenant advises that the circuit breaker would be triggered due to regular use and that the breaker would trip for the living room circuit multiple times each day, estimating it to be 2 to 4 times per day and sometimes 6 times per day. The Tenant testified that the breaker stopped working altogether on April 2, 2021 and that she replaced the breaker switch for the living room circuit with a breaker switch for another under-utilised circuit. The Tenant says that the living room circuit has been functioning since she exchanged the breaker switches. The Tenant admits she is not an electrician. The Tenant's exchange of the circuit breaker switches appears to have triggered the issuing of the One-Month Notice. In any event, an electrician was retained by the Landlord and they attended the rental unit on April 5, 2021 where the work done by the Tenant was either corrected or verified. Whether the Tenant's course of action in conducting her own electrical repair work was advisable is not relevant to this dispute.

The Tenant says that she is a tailor and works from home, operating the sewing machine from the living room. I am told that the circuit breaker switch tripping as frequently as alleged was inconvenient to the Tenant. The Landlord's agent argues that the Tenant overloaded the circuit with appliances and grow lights. I am directed by the Landlord's agent to a letter dated April 14, 2021 indicating that the circuit breaker tripping persisted elsewhere in the rental unit after the living room circuit had been repaired. The Landlord's agent indicates that the circuit breaker switches used by the residential property are of lower quality. He further argued that frequent tripping of the breaker switch can result in its failure. The Tenant denies overloading the circuit breaker.

The Landlord's agent emphasized that the Landlord is doing its best with respect to obtaining tradespeople and that the delay's are beyond its control.

Analysis

The Tenant seeks an order for repairs and rent reduction, both past and future.

Dealing first with the dishwasher repair, this issue does not appear to be in dispute. The Landlord acknowledges in the form of the letter dated September 10, 2021 that the dishwasher repair is its responsibility and the Landlord's agent confirms that they have ordered a new dishwasher. The Landlord is correct with respect to this point, as made

clear by Policy Guideline 1, which confirms major appliance maintenance is the landlord's responsibility unless the damage is said to have been caused by the actions or neglect of the tenant.

Based on the undisputed evidence of the parties, I find that the dishwasher is not functioning and requires replacement. Though largely moot given the fact the Landlord has already ordered a new dishwasher, I grant the Tenant's claim under s. 32(1) of the *Act* and order that the Landlord replace the dishwasher.

The substantive portion of the Tenant's application pertains to claims for rent reductions. Section 65 of the *Act* provides that when a landlord has not complied with the *Act*, Regulations, or the tenancy agreement the Director may order past or future rent be reduced by an amount that is equivalent to a reduction in the value of the tenancy.

The Landlord does not deny that the Tenant's dishwasher ceased functioning on or about July 27, 2021, nor does the Landlord deny receiving the Tenant's notice that the dishwasher was not functional. The parties acknowledge that the dishwasher remains non-functional. The tenancy agreement does not list the dishwasher as an appliance that is included in rent. However, the Landlord acknowledges that the dishwasher's maintenance is its responsibility and explicitly prevented the Tenant from taking steps to repair or replace it. The dishwasher clearly formed part of the tenancy based on the parties' conduct, the Landlord's acknowledgement in the September 10, 2021 letter, and the acknowledgement at the hearing by the Landlord's agent that a new dishwasher was ordered. I find that the Landlord breached its obligation under s. 32(1) of the *Act* to maintain the dishwasher.

The Landlord's agent argues that the repairs are subject to time delays that are beyond the Landlord's control. The Landlord's agent further indicates that the Tenant is demanding. Even if I were to accept that, the *Act* and the Policy Guidelines do not include such a consideration. Further, I am not convinced that is the full story. I note that the decision cancelling the One-Month Notice was issued on September 2, 2021. The Landlord then acknowledged appliance repair was its responsibility as per the September 10, 2021 letter and the Landlord retained a repairperson who attended in October 2021. The Tenant gave notice of the dishwasher repair at least by August 1, 2021 and the Tenant appears to have little trouble in obtaining a technician attend the rental unit prior October 2021. It appears likely that the Landlord delayed obtaining a repair technician until after the Tenant's prior dispute was determined.

The Landlord's agent indicates that the Tenant refused a dishwasher when it was offered to her. However, I accept the Tenant's evidence that this was done on short notice. I further note that the Tenant had already filed and served this application when the Landlord offered the replacement dishwasher, which would indicate the present application may have factored in the short notice given by the Landlord for the replacement. The Landlord's argument with respect to the Tenant's refusal of the dishwasher is not relevant to my determination.

The Tenant suggests that the loss of value be calculated in the amount of \$25.00 per month that it was not functioning. I agree with the Tenant's submissions and believe that this is an appropriate figure. Pursuant to s. 65 of the *Act*, I find that the Tenant is entitled to a past rent reduction claim for the dishwasher in the amount of \$250.00 (August 2021-May 2022). I further order that the Tenant's rent be reduced by \$25.00 per month to \$850.00 until the dishwasher is replaced. To be clear, once the dishwasher is replaced, the following month's rent will be due in the full amount of \$875.00.

The second aspect, that of the electrical circuit breaker, there is little dispute between the parties with respect to the relevant dates: the Tenant notified the Landlord of the issue in early February 2021 and it was repaired on April 6, 2021 after the electrician retained by the Landlord verified or corrected the Tenant's unauthorized electrical repair. It is again undisputed that the breaker switch failed altogether on April 2, 2021.

The Landlord's agent argues that the Tenant is responsible for causing the electrical disruptions by overloading the circuit with appliances. I am not persuaded by the Landlord's argument. The Landlord's agent confirmed at the hearing that the breaker switches used at the residential property were of a lower quality. Therefore, it would appear they would be more prone to failure. Further, the Tenant says the electrical circuit has not been an issue since the repairs were completed in early April 2021.

The Landlord's agent refers me to a letter dated April 14, 2021 that the breaker switches kept tripping, which he argued was proof that the Tenant was overloading the circuit. However, that letter does not indicate the specific circuit in the living room was a problem and the Tenant highlights other circuit breaker switches were a problem. Another plausible explanation for the breaker switches tripping frequently is that they are of an inferior quality and more prone to failure.

I find that the Landlord breached its obligation under s. 32(1) of the *Act* to maintain the electrical system within the rental unit. I do not find that the Tenant was responsible for

causing the electrical circuit switch failure. I accept the Tenants undisputed evidence that from February 5, 2021 until April 6, 2021 the breaker switch for the living room circuit tripped between 2 to 6 times per day. I further accept that this was an inconvenience for the Tenant considering her use of the space for her sewing machine.

The Tenant's advocate argues that rent be reduced by half for 2 months, such that the past rent reduction be \$875.00. With respect, I do not agree. There can be little doubt that this presented an inconvenience to the Tenant. However, the electrical system within the rental unit was still functioning and that the electrical circuit within the living room itself was functioning with intermittent disruptions until April 2, 2021. Such a significant reduction of the rent would not be appropriate in light of the intermittent disruptions and the fact only the living room circuit was a problem, though I accept that is likely the room used most by the Tenant during the day. I find that an appropriate amount be \$250.00 per month for the disruption, such that the total past rent reduction be \$500.00.

Conclusion

The Landlord is ordered pursuant to s. 32(1) of the *Act* to replace the dishwasher.

I find that the Landlord breached its obligation under s. 32(1) of the *Act* to maintain the dishwasher and the electrical system. Pursuant to s. 65 of the *Act*, I order that the Tenant's past rent be reduced by \$25.00 for each month the dishwasher was not functioning (\$250.00 total) and \$250.00 for each month the electrical system was not functioning properly (\$500.00 total). The total past rent reduction is \$750.00.

Pursuant to s. 72(2) of the *Act*, I order that the Tenant withhold \$750.00 from rent payable to the Landlord on one occasion in full satisfaction of the amount ordered as past rent reduction.

I further order pursuant to s. 65 of the *Act* that the Tenant's future rent obligations be reduced by \$25.00 for each month the dishwasher is no longer functional. Her rent obligation will be reduced to \$850.00 and will revert to the full amount payable under the tenancy agreement in the month that follows the dishwasher's replacement.

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: May 17, 2022

Residential Tenancy Branch