



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC, RP

Introduction

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

1. An Order for repairs - Section 32; and
2. An Order for the Landlord’s compliance - Section 62; and
3. A Monetary Order for compensation - Section 67.

The first application was made on June 6, 2022 and the second application was made on June 15, 2022. The Landlord, named as a numbered company, did not attend the hearing. I accept the Tenant’s evidence that the owner of the numbered company was served in person with the first application for dispute resolution and notice of hearing on June 27, 2022 and that their evidence was sent to the Landlord on October 7, 2022 by registered mail. The Tenant was given full opportunity under oath to be heard, to present evidence and to make submissions on the first application.

Preliminary Matters

The Tenant clarifies that the order being sought for compliance is in relation to the repairs being requested.

In error the Tenant set out a wrong address for the Landlord on the application by using the Tenant’s unit number. The Tenant seeks to amend this address to the correct unit #10 as this was the address earlier provided to the Tenant by the Landlord. The Tenant

confirms that the mail sent to the Landlord was to unit #10 and that, although there is no unit #10 in the building, the Landlord's mail was forwarded to the Landlord by the post office and was collected by the Landlord.

Rule 4.2 of the Rules of Procedure provides that in circumstances that can be reasonably anticipated, an application may be amended at the hearing. Given the Tenant's undisputed evidence of error in unit # on the application and subsequent successful delivery to the Landlord at unit #10 I find that there are reasonably anticipated circumstances that allow an amendment to the application to set out the unit #10 for the Landlord's address.

The Tenant did not serve the Landlord with the second application. I therefore dismiss this application with leave to reapply.

Issue(s) to be Decided

Is the Tenant entitled to repairs?

Is the Tenant entitled to the compensation claimed?

Background and Evidence

The tenancy started with a previous landlord in 2017. The current Landlord took over the tenancy on February 15, 2022. Rent of \$482.13 is payable monthly. At the outset of the tenancy the Tenant paid \$237.50 as a security deposit.

The Tenant states that in the last week of February 2022 the Landlord removed a wall in the Tenant's unit as the Landlord had found mold and water damage. The Landlord informed the Tenant that the wall would be left exposed until the area dries. The Landlord has since not returned to replace the wall although the Tenant has asked several times since then for the wall replacement. The Tenant requests that the wall be replaced as soon as possible and no later than November 30, 2022. The Tenant provides a video of the wall.

The Tenant states that when it went to the post office to send its evidence to the Landlord the Tenant was informed that postal delivery to the building has been stopped as asbestos has been found there. The Tenant believes that asbestos may also be in the Tenant's unit, in particular, in the exposed wall area. The Tenant confirms that although mail is no longer being delivered to the building causing the Tenant to collect mail from the post office, the Tenant is not seeking compensation for this loss of service.

The Tenant states that they are provided with use of laundry facilities under the tenancy agreement but that are choosing not to use the laundry facility in the building because they suspect asbestos or mold could be in the walls. The Tenant states that the problem has been present since December 2021. The Tenant claims compensation of \$40.00 for each month that the Tenant has not been able to use the laundry facilities and continuing until repaired or confirmed to be safe for use.

Given the belief that asbestos and mold is in the building and the Tenant's unit, the Tenant asks for an order that the Landlord obtain a professional inspection of the unit to determine whether mold or asbestos are in the unit. The Tenant requests the inspection for as soon as possible and no later than November 2, 2022.

The Tenant states that the bathroom sink has a leak, and that the Landlord was informed of this leak at the end of February 2022. The Landlord has not repaired the leak and the Tenant requests an order for repair to the sink as soon as possible and not later than November 30, 2022.

The Tenant states that the toilet no longer leaks but is concerned that it may become a problem again.

The Tenant states that the stove in the unit is as old as the building that is over 50 years old. The Tenant states that the stove has one burner that does not work and an oven

door that does not close other than by hook added by the Landlord. The Tenant states that the oven does not cook food properly and requests the replacement of the stove. The Tenant provides a photo of the stove.

The Tenant states that the Landlord has failed to maintain several items in the unit. The Tenant does not recall whether a request was made for the Landlord to make repairs to these items.

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.

Based on the Tenant's undisputed evidence that mail is not being delivered to the building by the postal office because of the presence of asbestos, the undisputed age of the building, and the photo of the open wall in the Tenant's unit I find that the Tenant has substantiated its request for an inspection of the Tenant's unit for mold or asbestos and for repair of the wall. I therefore order the Landlord to obtain a professional inspection of the unit for mold or asbestos as soon as possible. Given the elapsed time since the hearing I consider that November 2, 2022 as an end date may be too early, and I therefore order the Landlord to have the inspection done no later than November 30, 2022. Further based on the undisputed evidence of the state of the wall and accepting that the Landlord is aware of the state the wall left incomplete by the Landlord since February 2022, I order the Landlord to repair the wall as soon as possible and no later than November 30, 2022. Based on the Tenant's undisputed evidence of a leak from the bathroom sink and of having informed the Landlord of this leak I find that the Tenant is also entitled to an order that the Landlord repair the leak as soon as possible and no later than November 30, 2022.

Policy Guideline #40 provides that the useful life of a stove is 15 years. Given the photo of the stove I accept that the stove is well past its useful life. I also accept, based on the Tenant's undisputed evidence that the stove is not working properly due to the door and the missing burner. Given the age of the stove, I order the Landlord to replace the stove as soon as possible and no later than November 30, 2022.

As there is no evidence of a leak occurring any longer from the toilet, I dismiss the claim for repairs to this item with leave to reapply should the leak occur again.

As the Tenant did not inform the Landlord of the list of deficient items for repair, I dismiss this claim with leave to reapply. I caution the Tenant to provide a list of deficient items to the Landlord and a reasonable time frame for completion when seeking repairs to the items on the list prior to making any claim for repairs not completed.

Although the Tenant has a belief of asbestos in the laundry area, given the Tenant's evidence that they chose not to use the laundry area and as there is no evidence that the Tenant has raised the issue with the Landlord, I find that the Tenant has not substantiated the Tenant's claim for compensation for using an alternate laundry facility. I dismiss this claim.

Should the Landlord fail to make the repairs or inspection as ordered, the Tenant has leave to reapply for compensation.

Conclusion

The Landlord is ordered to complete, as soon as possible and no later than November 30, 2022, an inspection of the unit for mold or asbestos, repairs to the wall and bathroom sink, and the replacement of the stove.

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: October 26, 2022

Residential Tenancy Branch