



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes RP, RR, MNDC, LRE, FF

Introduction, Preliminary and Procedural Matters-

This hearing convened to deal with the tenant's application for dispute resolution (application) seeking remedy under the Residential Tenancy Act (Act). The tenant applied for:

- an order requiring the landlord to make repairs to the rental unit to comply with health, safety and housing standards;
- a reduction in monthly rent;
- compensation for a monetary loss or other money owed;
- an order suspending or setting conditions on the landlord's right to enter the rental unit; and
- recovery of the cost of the filing fee.

The tenant, the tenant's advocate (advocate), the landlord, and the landlord's witness, attended and all parties were affirmed. The witness testified at the beginning of the hearing and left the hearing.

Preliminary issues were discussed.

Although the tenant applied for a rent reduction, the tenant's claim was for a lump sum amount, not a reduction in their monthly rent. For this reason, I consider this request a monetary claim and not a reduction in their monthly rent.

Residential Tenancy Branch (RTB) Rules of Procedure (Rules), Rule 2.3 applies and states that, "*claims made in the application must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply*".

The tenant was informed that I find not all issues were sufficiently related to the primary issue and for this reason, I would not consider the tenant's monetary claims at this hearing.

Additionally, I find the tenant failed to provide sufficient particulars of their claim for an order requiring the landlord to make repairs. The description written in the tenant's application is as follows:

The needed and requested repairs are still not complete and in fact resulting in further damage to the unit.

[Reproduced as written]

I initially informed the tenant that I would not proceed on their application for repairs as the repair requests were not sufficiently identified, which I find is a failure to comply with section 59(2)(b) of the Act. This section states that an application for dispute resolution **must**, "*include full particulars of the dispute that is to be the subject of the dispute resolution proceedings*".

[emphasis added]

The advocate presented that the list of repair request was in the tenant's evidence and they intended to discuss the list of repairs along with a review of the photos in the hearing. The evidence referred to were handwritten letters from the tenant to the landlord, from March 2022. The letters referred to multiple issues, some of which were apparently corrected or addressed. I did not find one specific list of repair requests, current or otherwise, that was the subject of this dispute. The tenant and advocate confirmed that this evidence was from a previous dispute resolution matter in 2022.

An example of why I did not find the claim was sufficiently set out was in reviewing the tenant's photos. The photos included a picture of exterior stairs, of which no mention was made in the tenant's two handwritten letters. For these reasons, I find the tenant's evidence on this issue vague and confusing.

The advocate then requested that the most urgent repair request be addressed at the hearing. After further discussion, which included the landlord, the decision was made to proceed with the hearing in order to address the repairs to the walls in the kitchen and the request for installation of a kitchen window.

The parties were provided the opportunity to present their evidence orally and to refer to relevant documentary evidence submitted prior to the hearing, and make submissions to me.

I have reviewed all oral, written, and other evidence before me that met the requirements of the Rules. However, not all details of the parties' respective submissions and or arguments are reproduced in this Decision. Further, only the evidence specifically referenced by the parties and relevant to the issues and findings in this matter are described in this Decision, per Rule 3.6.

Words utilizing the singular shall also include the plural and vice versa where the context requires.

Issue(s) to be Decided

Is the tenant entitled to an order for repairs as outlined above and recovery of the cost of the filing fee?

Background and Evidence

The evidence showed this tenancy began on October 1, 2020, that monthly rent was \$1,030, current monthly rent is \$1,045.45, according to the tenant, and the tenant paid a security deposit and pet damage deposit of \$575 each.

The evidence was that the tenant's entrance into the rental unit leads directly into their kitchen. Initially, the tenant's entrance door was a sliding glass door, which has now been replaced by a standard size door.

The tenant submitted that since the sliding glass door was replaced her kitchen is much darker. The tenant said that the landlord promised to install a window in their kitchen to let in more natural light, but the landlord has failed to install the window. The tenant pointed out that the new door opens to the outside and the door hinges are also on the outside, which is unlike the doors in the other units.

As to the opening where the window should be installed, the tenant said that there is cement in place, until the installation. The tenant referred to their photographic evidence.

The tenant requested that the wall repairs be made from the damage left from the door installation. The tenant referred to their photographic evidence.

Landlord's response

The landlord submitted that the sliding door was from 1984 and due to its age and lack of functionality, needed to be replaced. The landlord said that a new, standard size door was installed in its place, and agreed that the door opening was to the outside, for safety reasons. The landlord pointed out that the door could not be kicked in, as well as it opened up space in the kitchen. The landlord denied promising the tenant a new window, only telling the tenant that they would install a window if the contractor determined it was feasible, which they did not. The landlord submitted that the exterior of the building which was impacted with the door replacement has now been repaired and repainted. The landlord denied there is cement in the wall for the window installation, and that there is "hardy plank" there, ready for the repairs and re-painting in the kitchen, not a window installation. The landlord said that there was a window in the new door.

In his written statement, the landlord submitted the following:

I [] do swear that I did offer to finish the drywall repair last year for unit number #3 tenant [] BC, Both in the laundry room, around the electric breaker box also around the new entrance door that replaced the worn out aluminum patio door and trim out the door with painted wood trim also have my painter paint those two areas. However, I was refused entry for adding extra drywall mud & tape, making it ready for the painter to do the final sanding finish the work. Stating that only if I did all the repairs were done would entry be given, I know of no other work needed to be done. I have tried to do the repairs in a timely fashion. /

[Reproduced as written except for redacting personal information to protect privacy]

The landlord agreed the repairs need to be finished and that he will mud, sand and tape the affected walls, with a painter and mudder making the final repairs.

Analysis

Based on the relevant oral and written evidence, and on a balance of probabilities, I find as follows:

The burden of proof in a dispute resolution hearing is on the person making the claim.

Section 32 of the Act requires that a landlord must provide and maintain a rental unit in a state of repair that complies with the health, safety, and housing standards required by law and having regard for the age, character, and location of the rental unit, makes it suitable for occupation by a tenant.

Where a tenant requests such repairs, I find the landlord must be afforded a reasonable amount of time to take sufficient action.

At the hearing, the landlord confirmed they would make the repairs to the walls that had been damaged from the door installation. The landlord also agreed that they would repair the areas around the electrical box near the bathroom.

Therefore, pursuant to section 62(3) of the Act, I **order** the landlord to finish the drywall repair, both in the laundry room, around the electric breaker box and around the entrance door, to trim out the door, and paint the affected areas.

I order that the work be completed in a good and workmanlike manner no later than **April 1, 2023**.

As to the remaining issue concerning installation of a new kitchen window, I find the tenant submitted insufficient evidence that having a window where none previously existed represents a health or safety issue making the rental unit unsuitable for occupation. Having reviewed the tenant's photographic evidence, I find the area referred to by the tenant was not cement, but unfinished drywall.

I therefore decline to order the landlord to install a kitchen window.

As the tenant was partially successful, I grant the tenant the recovery of the \$100 filing fee. I **authorize** the tenant a one-time rent reduction in the amount of **\$100** from a future month's rent in full satisfaction of the recovery of the cost of the filing fee. The tenant

should inform the landlord when making this deduction so that the landlord has no grounds to serve a 10 Day Notice in that event.

Balance of the tenant's application

For the above reasons, I dismiss the tenant's monetary claims, with leave to reapply, as they were determined not related to the primary issue of their request for repairs.

I also dismiss the tenant's request for an order suspending or setting conditions on the landlord's right to enter the rental unit, with leave to reapply. The tenant provided no documentary evidence under this issue.

Information for the parties

A discussion was held near the conclusion of the hearing regarding service timelines and requirements for serving notices of entry into the rental unit.

As a reminder, section 29 of the Act provides as follows:

(1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

(a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;

(b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:

(i) the purpose for entering, which must be reasonable;

(ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;

If a document is served by attaching it to the tenant's door or left in the tenant's mailbox, the document is deemed received on the 3rd day, or by mail, on the 5th day. If pre-approved for service of documents, the document is deemed served on the 3rd day after emailing the document. If a document is personally served by handing it to the tenant, service is that day.

The tenant is informed that in the event the landlord provides proper notice of entry into the rental unit, the landlord may enter the rental unit, with or without the tenant's permission or presence.

As the landlord indicated they would have a contractor complete the repairs, I urge the tenant to cooperate with entry to the rental unit where necessary.

Conclusion

The tenant's request for repairs to the walls in the rental unit is granted in the above terms.

The tenant's monetary claims and request for order suspending or setting conditions on the landlord's right to enter the rental unit are dismissed, with leave to reapply.

The tenant has been granted recovery of their filing fee of \$100, through a one-time reduction in monthly rent.

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*. Pursuant to section 77(3) of the Act, a decision or an order is final and binding, except as otherwise provided in the Act.

Dated: March 01, 2023

Residential Tenancy Branch