



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes ERP

Introduction

This hearing dealt with the tenant's application for emergency repair orders.

Both parties appeared and/or were represented at the hearing and the parties were affirmed. The hearing process was explained to the parties and the parties were given the opportunity to ask questions about the process. Both parties had the opportunity to make relevant submissions and to respond to the submissions of the other party pursuant to the Rules of Procedure.

I confirmed the tenants served their proceeding package to the male landlord, in person. The landlords confirmed they had an opportunity to review the materials and took no issue with respect to service. Therefore, I admitted the tenant's materials for consideration in making my decision.

I noted the landlords had uploaded materials to the Residential Tenancy Branch three days prior to the hearing. I heard the landlords sent these materials to the female tenant, via email, three days ago; however, the landlord did not have agreement or consent to serve via email. The female tenant checked her email at the hearing and noted there was an email from the landlord but she had not seen it before today. Since the landlord's service was insufficient, I did not admit the landlord's materials; however, I informed the parties that the landlords may provide their relevant evidence orally during the hearing.

Issue(s) to be Decided

Is it necessary to issue emergency repair orders to the landlords?

Background and Evidence

The tenancy started on May 1, 2021 and the tenants are currently required to pay rent of \$1900.00 on the first day of every month.

Via text message, on March 12, 2023 the tenants notified the landlords that they were having problems with the electrical system at the rental unit, including loss of heat. The landlord responded that the tenant should proceed to have an electrician attend and the landlord would reimburse the tenant upon receiving the electricians report.

The tenants had an electrician attend the rental unit on March 13, 2023. At that time the electrician inspected, noted a number of issues, and made a number of repairs over four hours, which cost the tenant \$420.00, but the electrician did not finish making all the repairs and indicated on the invoice there were further issues that required attention, including another suspected short circuit.

The tenants testified that their primary bedroom has no power. There are no working lights or outlets in their bedroom so they have to run an extension cord to a different outlet; however, there are issues with some of the outlets. When outlets on the back wall of the living room are used, the hallway light flickers. Also, the light/fan switch in the living room does not turn on the ceiling fan or light. The tenants testified that the electrician noted that there were circuits shorting.

The tenant sent the electricians report/invoice to the landlord. The landlord has not yet reimbursed the tenants; nor, has the landlord proceeded to have the remainder of the electrical repairs made.

The tenant testified that in seeking reimbursement and having the remainder of the electrical repairs made the female landlord accused the tenant of causing the problem by plugging in space heaters; however, the tenants deny doing that and only had one small space heater in the bathroom.

The female landlord responded that they did not reimburse the tenants for the electrician's invoice because there are outstanding utility bills owed to the landlords. The male landlord stated they will reimburse the tenants.

As for the outstanding electrical issues, the landlords acknowledged they are aware there is no power in the main bedroom and that there may be issues with some switches and receptacles elsewhere in the home but they did not consider the issues to

constitute an emergency based on the electrician's report. The landlords stated the tenancy is ending on April 30, 2023 due to an eviction notice the landlords served the tenants, so they will deal with the issues after the tenants vacate.

The tenants indicated they are not vacating on April 30, 2023 and they have filed another Application for Dispute Resolution. The landlords stated they have not yet been served with the tenant's proceeding package for another dispute. The tenant stated they have not yet passed the deadline for serving and will be serving the landlords soon. The landlords also stated they have filed an Application for Dispute Resolution recently with respect to the eviction notice but their application has not yet been processed by the Residential Tenancy Branch and a hearing date has not yet been set. Since the validity and enforceability of the eviction notice has yet to be determined at an eviction proceeding, and the tenants indicated they are not moving out on April 30, 2023 I informed the landlords that they need to have the electrical repairs made so as to not risk the health and safety of the occupants of the building and to protect the property.

The male landlord responded that they will have an electrician attend the rental unit next weekend or the weekend following to start to deal with the issue.

The tenants stated that the electrician they hired was available to come the same day they called him.

During the hearing, I informed the landlords that I found their proposed timeline to deal with the electrical issues to be too lax given the seriousness and potential for fire. As such, I imposed a deadline of one week to have the remaining electrical repairs completed. I was of the view this was within reason given the tenants were able to get an electrician to inspect, diagnose and make many of the repairs within one day. The landlord indicated he understood and would comply.

I also informed the landlords that they would need to get the tenant's consent to enter the unit to facilitate the electrical repairs and I strongly encouraged the tenants give consent or not unreasonably withhold consent. If the landlords do not obtain consent, the landlord must give the tenants a 24 hour written notice to enter and proceed to enter on the date/time indicated in the notice. Both parties indicated they understood and would be co-operative to facilitate the repairs.

Analysis

Section 33 of the Act deals with emergency repairs, as reproduced below:

33 (1) In this section, "**emergency repairs**" means repairs that are

- (a) **urgent,**
- (b) **necessary for the health or safety of anyone or for the preservation or use of residential property**, and
- (c) made for the purpose of repairing
 - (i) major leaks in pipes or the roof,
 - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
 - (iii) **the primary heating system**,
 - (iv) damaged or defective locks that give access to a rental unit,
 - (v) **the electrical systems**, or
 - (vi) in prescribed circumstances, a rental unit or residential property.

(2) The landlord must post and maintain in a conspicuous place on residential property, or give to a tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs.

(3) A tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

(4) A landlord may take over completion of an emergency repair at any time.

(5) A landlord must reimburse a tenant for amounts paid for emergency repairs if the tenant

- (a) claims reimbursement for those amounts from the landlord, and
- (b) gives the landlord a written account of the emergency repairs accompanied by a receipt for each amount claimed.

(6) Subsection (5) does not apply to amounts claimed by a tenant for repairs about which the director, on application, finds that one or more of the following applies:

- (a) the tenant made the repairs before one or more of the conditions in subsection (3) were met;
- (b) the tenant has not provided the account and receipts for the repairs as required under subsection (5) (b);
- (c) the amounts represent more than a reasonable cost for the repairs;
- (d) the emergency repairs are for damage caused primarily by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(7) If a landlord does not reimburse a tenant as required under subsection (5), the tenant may deduct the amount from rent or otherwise recover the amount.

In this case, I am satisfied the electrical failure of March 12, 2023 necessitated emergency repairs to be made. The tenants notified the landlords of the issue, the landlord's response was to instruct the tenants to have an electrician attend the property. The tenants proceeded to follow the landlord's instruction and had an electrician attend the following day. The tenants paid the electrician, provided the receipt to the landlords, and I am satisfied the charge is reasonable for an emergency call out. Yet, the landlords have yet to reimburse the tenants. Therefore, **I authorize the tenant's to recover this amount by deducting it from rent due on May 1, 2023** having heard the tenants are not vacating the property on April 30, 2023 and the landlords stated they have no more post dated rent cheques from the tenants.

Upon review of the electrician's report/invoice of March 13, 2023 and upon hearing testimony of both parties, I find there are still outstanding electrical repairs to be made.

Although the landlords did not view the outstanding repairs as being an emergency, I find the electrician's report and the tenant's testimony to be persuasive that this is an emergency. The tenants were with the electrician as he inspected the unit and made diagnoses that included short circuits and the electrician's invoice also indicates that short circuits may still be present. I take note that electrical problems, including short circuits, have potential to cause fires and I find it is unreasonable to delay the repairs considering the landlord has an obligation to make repairs necessary to protect the health and safety of the occupants of the rental unit and preserve the property. I am also of the view that having no power in the primary bedroom is unreasonable as one needs light and power for basic needs such as dressing, reading and running basic appliances such as an alarm clock. Expecting the tenants to run an extension cord to

acquire power in the primary bedroom for any length of time beyond temporary is in my view unreasonable. Therefore, I find it necessary and appropriate to order the landlords to make emergency repairs to the electrician system so that it is safe and functional in a very timely manner.

I ORDER the landlords to repair the electrical system so that it is safe and functional within one week of the date of this hearing.

For purposes of facilitating the emergency repairs to the electrical system, and having seen the parties effectively communicate via text message, I authorize the following:

- **the landlords may request consent to enter with the electrician or give the tenants a 24 hour advance notice of entry, including the date/time of entry, via text message.**

I encourage the tenants, upon receipt of the above described text message, to acknowledge receipt of the message and give consent where it is requested.

Conclusion

The tenants are authorized to deduct \$420.00 from rent payable on May 1, 2023 to recover funds expended to make electrical repairs to the rental unit. In paying the balance of rent owed, in the net amount of \$1480.00, the landlords must consider the rent to be paid in full.

The landlords are ORDERED to complete electrical repairs to the rental unit so that the electrical system is safe and functional, within one week of today's date.

For purposes of facilitating the repairs ordered in this decision, the landlords are authorized to request consent to enter or give a 24 hour notice of entry by sending a text message to the tenants.

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 21, 2023

Residential Tenancy Branch