



Dispute Resolution Services

Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes RR, RP, AAT, PSF, OLC, FFT
RR, DRI-ARI-C, PSF, LRE, LAT, FFT

Introduction

This hearing dealt with two applications of the tenants pursuant to the *Residential Tenancy Act* (the Act) for:

- an order to allow access to or from the rental unit or site for the tenants or the tenants' guests pursuant to section 30;
- an order that the landlords make repairs to the rental unit pursuant to section 32;
- a determination regarding their dispute of a rent increase by the landlords pursuant to section 43;
- an order requiring the landlords to comply with the Act, regulation or tenancy agreement pursuant to section 62;
- an order to allow the tenants to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65;
- an order that the landlords provide services or facilities required by law pursuant to section 65;
- authorization to change the locks to the rental unit pursuant to section 70;
- an order to suspend or set conditions on the landlords' right to enter the rental unit pursuant to section 70; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

HN testified the tenants served the landlords with the notice of dispute resolution packages via registered mail on December 9, 2022 and the supporting documentary evidence by leaving it in their mailbox March 7, 2023. He testified that the rental unit is a basement suite of a single detached house, and that the landlords lived on the upper floor at the start of the tenancy and continued to reside there until December 2022, after which they moved out. They did not provide the tenants with an address for service.

The tenants sent the registered mail to the upper unit and they left the evidence in the upper unit's mailbox. HN testified that he knocked on the door of the upper unit to attempt to serve the landlords, and the person who opened it told him that the landlords

were not in, and that if he left the evidence in the mailbox, they would get it. HN stated that the landlords attend the upper unit multiple times a week to collect mail.

Based on HN's testimony, I am satisfied that the landlords resided in the upper unit at the time the notice of dispute resolution proceeding packages were sent there by registered mail. As such I find that these documents have been served in accordance with the Act. I am also satisfied that as the landlords did not provide the tenants with a new address for service, the tenants' leaving the evidence package in the mailbox of the upper unit is sufficient service for the purposes of the Act. I deem that service of the evidence has occurred.

Issues to be Decided

At the outset of the hearing, I attempted to clarify the relief that the tenants were seeking as some parts of the notices of dispute resolution proceeding were duplicative. NH stated that the tenants are seeking the following orders:

- 1) an order that the landlords:
 - a. perform pest extermination in the entire residential property (and not just the rental unit);
 - b. install a smoke detector in the rental unit;
 - c. give the tenants access to WiFi internet, as agreed to at the start of the tenancy;
 - d. comply with the terms of the Act when attempting to evict the tenants;
- 2) an order that the tenants may change the locks of the rental unit;
- 3) a declaration that the monthly rent is \$1,600;
- 4) a retroactive rent reduction of \$600 for the last seven months;
- 5) an ongoing rent reduction of \$600 until Wi-Fi is provided, the pest infestation is eliminated, and the smoke detector is installed; and
- 6) recovery of the filing fees.

Each of these issues was discernable from the notices of dispute resolution proceeding. As such, I do not consider the tenants to have amended their applications, but rather to have clarified them. My decision will address these issues.

Evidence and Analysis

While I have considered the documentary evidence and the testimony of the attendees, not all details of their submissions and arguments are reproduced here. The relevant

and important aspects of the tenants' claims and my findings are set out below. Except where otherwise stated, I accept the undisputed evidence of the tenants.

The parties entered into a verbal tenancy agreement starting August 15, 2022. Monthly rent is \$1,600 and is due on the fifteenth day of each month. The tenants provided copies of e-transfers to the landlords supporting this amount. HN testified that the parties agreed the tenancy was for a fixed term of one year. Wireless internet, laundry, and electricity are included in the monthly rent. The tenants paid a security deposit of \$800 to the landlords, which they still hold in trust for the tenants.

HN testified that the tenants demanded a written tenancy agreement from the outset of the tenancy, but the landlords refused. In October 2022, HN prepared a written tenancy agreement which set the monthly rent as \$1,700 (all other terms being the same as above) in an effort to get the landlords to sign it. The landlords refused to do so.

1. WiFi Internet

HN testified that approximately one month after the tenancy began, the landlords cut off Wi-Fi access. They have not reinstated Wi-Fi access. The tenants provided a note included with an e-transfer of October's rent which states:

As mentioned you from last two months that are basement has so many rats, laundry dryer is not working since August 25. Wi-Fi has stopped working since September 10 [...] We have requested you several times to fix these issues but you are repeatedly promised to take care of these problems but never come through. Please take care ASAP.

I accept that WiFi is included in the monthly rent, and that the landlords have terminated the WiFi service. I order the landlord to re-instate WiFi service to the rental unit immediately.

The tenants did not provide documentary evidence as to how much monthly internet service would cost if they were required to install it themselves. However, I take notice of the fact that monthly internet is not inexpensive. In the circumstances, I find that \$100 per month is appropriate compensation for the loss of use of the WiFi. I order the landlords pay the tenants \$766 (\$66 for September 2022 and \$100 per month for October 2022 to April 2023). The tenants may deduct \$100 from their monthly rent until the WiFi is reinstated.

2. Infestation

HN testified that the rental unit is infested with mice. He testified that mice droppings are found throughout the rental unit, and that they have reported this to the landlord several times, but the landlord has not addressed the problem. In support of this testimony, the tenants submitted video and photographic evidence of mice droppings, dead or dying mice in mouse traps, and a letter from a pest control company which states:

After our initial inspection, we conclude that the entire house needs to be treated for mice. We will set up bait stations in areas with high levels of activity and identify all entry points that need to be addressed in the house.

HN testified that the tenants had previously hired this pest control company to attempt to exterminate the mice in the rental unit only, but that the extermination was unsuccessful. They submitted an invoice for \$420 dated November 21, 2022 confirming this.

The tenants advised the landlords of the infestation in August 2022. However, to date, the landlords have not taken any steps to address the infestation. Section 32 of the Act requires the landlord to provide and maintain the residential property in a state of decoration and repair that makes it suitable for occupation by the tenant.

In light of the fact that the pest company letter states that the entire house needs to be treated for mice, I find that the infestation is not the result of the actions of the tenants. As such, it is the landlords' responsibility to address.

Accordingly, I order the landlords engage an exterminator to eliminate the rodent infestation from the rental unit immediately. I will not prescribe a particular method they must follow. It may be that the entire residential property needs to be treated or it may be that other measures can be taken within the rental unit itself to eliminate the infestation. Regardless, the infestation must be eliminated no later than May 31, 2023.

I accept that the infestation has reduced the tenants' quiet enjoyment of the rental unit. The tenants advised the landlord of the infestation in August 2022, but the landlords did not take any steps to address it. I find that the tenants are entitled to a retroactive rent reduction of \$200 per month from September 2022 to April 2023 (\$1,600 total). The tenants may deduct a \$200 from May 2023 rent if the infestation persists as of April 31, 2023.

If the infestation is not eliminated by May 31, 2023 the tenants may deduct a further \$100 (\$300 total) from June 2023 rent. If the infestation is not eliminated by June 30, 2023, the tenants may deduct a further \$200 from July 2023 rent (\$400 dollars total) and every subsequent month's rent until such time as the infestation is eliminated.

3. Smoke Detector

The tenants testified that they advised the landlord that their smoke detector wasn't working. In February 2023, the landlords dropped off a new smoke detector. HN testified that the tenants did not know how to install it, and asked that the landlords do it. Based on the fact that the landlords dropped off the smoke detector, I find that the one that is currently installed is not functional.

Residential Tenancy Branch (RTB) Policy Guideline 1 states that if there are smoke detectors, the landlord must install and keep smoke alarms in good working condition. As such, I order the landlord to install the smoke detector immediately. The tenants are entitled to a nominal reduction of rent of \$25 for March and April 2023 as a result of this breach (\$50 total). However, given the relative ease of installation and the safety benefits a smoke detector brings, if the smoke detector is not installed by April 30, 2023, the tenants may deduct \$200 from May's rent, and every month thereafter until the landlords install the smoke detector.

The tenants must comply with all reasonable requests of the landlords to facilitate the reconnection of the WiFi, the infestation extermination, and the smoke detector installation.

4. Attempted Evictions and Lock Change

NH testified that the landlords have demanded that the tenants leave the rental unit because they intend to develop the residential property and that the residential property is too expensive to maintain due to the infestation. He stated that these demands were made in response to the tenants sending the landlords videos of the mice dropping.

He testified that on March 1, 2023, one of the landlords threatened to hurt the tenants and attended the rental unit with a pickup truck and two or three other cars and advised the tenants that he was going to load their belongings into the vehicles and forcibly remove the tenants from the rental unit. The tenants called the RCMP, the RCMP attended the rental unit, and the landlord relented.

This was not the first time the landlords have threatened an eviction or attended the rental unit. NH stated that on four or five occasions, they have entered the rental unit without notice. NH testified that he told the occupants that they did not need to give the tenants notice of entry.

NH stated that the tenants were fearful that the landlords will come to the rental unit when the tenants are not there and take their belongings. He also argued that this is an infringement of their privacy. On one occasion, one of the landlords came to the rental unit when the tenants were having dinner and demanded the tenants to leave and stated that he would throw the tenants' belongings out.

The landlords' demands that the tenants vacate the rental unit have no legal force. If the landlord wants to end the tenancy they must do so in accordance with the Act. Sections 46 to 49 set out the various ways which a landlord may end a tenancy. A landlord cannot end a tenancy in any other way.

I order the landlords to comply with the Act when attempting to end the tenancy and to cease threatening the tenants with eviction. If the landlords believe that they are entitled to end the tenancy, they must issue the appropriate notice to end tenancy. I explicitly make no findings as to whether the grounds on which the tenants claim the landlords have attempted to end the tenancy would be successful.

RTB Policy Guideline 7 states where a tenant can prove that the landlord has entered contrary to the Residential Tenancy Act, the tenant may apply to have the locks to the rental unit changed.

Section 29 of the Act permits a landlord to enter the rental unit on 24 hours written notice which states a reasonable purpose for entering. Based on NH's testimony, I find that this did not occur and that the landlords have entered the rental unit without the tenants' consent on multiple occasions. I find it more likely than not that one of the landlords is likely to re-enter the rental unit without the required notice if the locks remain unchanged.

Accordingly, per Policy Guideline 7 and section 70(2)(a) of the Act, I order that the tenants may change the locks to all entry doors of the rental unit and I prohibit the landlord from replacing those locks or obtaining keys to those locks.

The tenants have been successful in both their applications. As such, they may recover the filing fees for each from the landlord.

Conclusion

The tenants have been successful in their applications.

I order the landlord to reinstate the WiFi, eliminate the rodent infestation, and install the smoke detector on the schedules set out above. If they do not, the tenants may make deductions from their month rent as set out above.

The tenants may change the rental unit locks.

Pursuant to sections 62 and 72 of the Act, I order that the landlords to pay the tenants \$2,616, representing the following:

Loss of WiFi	\$766.00
Infestation	\$1,600.00
Lack of smoke detectors	\$50.00
Filing fees	\$200.00
	\$2,616.00

If the landlord refuses to pay this amount, the tenants may deduct it from their rent (in addition to any other deductions I have authorized).

The tenants must serve this decision and the attached order on the landlords in accordance with the Act.

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