



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes RR, RP, PSF, OLC, FFT

Introduction

This hearing dealt with the tenants' application pursuant to the *Residential Tenancy Act* (the *Act*) for:

- an Order directing the landlord to comply with the *Act*, regulation or tenancy agreement, pursuant to section 62;
- an Order for regular repairs, pursuant to section 32;
- an Order to provide services or facilities required by the tenancy agreement or law, pursuant to section 65;
- an Order to reduce rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65; and
- authorization to recover the filing fee for this application from the landlord, pursuant to section 72.

The tenants, the landlord and the landlord's agent (the "agent") attended the hearing and were each given a full opportunity to be heard, to present affirmed testimony, to make submissions, and to call witnesses.

Both parties were advised that Rule 6.11 of the Residential Tenancy Branch Rules of Procedure prohibits the recording of dispute resolution hearings. Both parties testified that they are not recording this dispute resolution hearing.

Both parties confirmed their email addresses for service of this Decision.

Preliminary Issue- Amendment

The landlord testified to the correct spelling of her first name. The tenants' application for dispute resolution misspelled the landlord's first name. Pursuant to section 64 of the act I amend the tenants' application for dispute resolution to correctly spell the landlord's first name.

Preliminary Issue- Service

The landlord confirmed receipt of the tenant's application for dispute resolution, evidence and amendment. The tenants confirmed receipt of the landlord's evidence. I find that both parties were sufficiently served for the purposes of this Act pursuant to section 71 of the Act with the above documents as receipt was confirmed.

Preliminary Issue- Severance

Residential Tenancy Branch Rule of Procedure 2.3 states that claims made in an Application for Dispute Resolution must be related to each other. Arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

It is my determination that the priority claim regarding repairs to the subject rental property are not sufficiently related to any of the tenants' other claims to warrant that they be heard together. I exercise my discretion to dismiss all of the tenant's' claims with leave to reapply except an order for regular repairs and recovery of the filing fee for this application.

Issue to be Decided

1. Are the tenants entitled to an Order for regular repairs, pursuant to section 32 of the Act?
2. Are the tenants entitled to recover the filing fee for this application from the landlord, pursuant to section 72 of the Act?

Background and Evidence

While I have turned my mind to the documentary evidence and the testimony of both parties, not all details of their respective submissions and arguments are reproduced here. The relevant and important aspects of the tenants' and landlord's claims and my findings are set out below.

Both parties agreed to the following facts:

- this tenancy began on July 1, 2022 and is currently ongoing,
- monthly rent in the amount of \$1,750.00 is payable on the first day of each month, and
- a security deposit of \$875.00 and a pet damage deposit of \$200.00 were paid by the tenants to the landlord.

A written tenancy agreement was signed by both parties and a copy was submitted for this application.

The tenants testified that they are seeking repair orders for the following items:

- windows,
- heaters, and
- laundry machines.

Windows

The tenants testified that they are seeking an order for the landlord to repair the windows in the master bedroom and the living because the window frames have shifted from the wall leaving a 2 inch gap open to the outside.

The tenants testified that they advised the landlord of same in November of 2022. The tenants testified that the landlord attended at the subject rental property and on January 15, 2022 screwed the windows shut. The tenants testified that this closed the gap but rendered the windows unable to open. The above testimony was not disputed by the landlord or the agent.

The agent testified that new windows for the master bedroom and living room have been ordered and will be replaced as soon as they arrive and can be installed. The landlord entered into evidence:

- an estimate for new windows dated January 25, 2023 in the amount of \$2,064.30,

- a purchase order for new windows dated January 30, 2023, and
- a purchase order for the cost to replace the rollers, guides and weather stripping on three windows,
- an email dated March 21, 2023 from the window company to the landlord which states that the windows have been ordered and that delivery times are currently 6-12 weeks.

Heaters

Both parties agreed that:

- in January of 2023 the tenants complained to the landlord about heaters in the subject rental property working intermittently,
- In January of 2023 the landlord hired an electrician to inspect the heaters, thermostats and breakers and ultimately replaced the thermostat in the master bedroom which resolved the problem in the master bedroom.

The tenant testified that the electrician was able to get the heater in the spare bedroom to work when the master bedroom heater was repaired, but the fix did not last and it continues to work intermittently and that the hallway heater has the same problem.

The agent testified that after the electrician attended in January 2023 he thought the heater problem was resolved and that this is the first time he has learned of continued issues with the heaters. The agent agreed to hire an electrician to look at the heaters in the hallway and spare bedroom.

Laundry

Both parties agree that laundry facilities are available in the subject rental building (not within the subject rental suite). The agent testified that to use the laundry machines tenants are required to load cards via a machine in the rental building with money. Tenants can then scan the cards at the laundry machines to operate them; alternatively, there is a phone app that can be downloaded to operate the laundry machines. The above testimony was agreed to by the tenants.

Both parties agree that in September of 2022 the landlord provided the tenants with a laundry card with funds loaded on it. The tenants testified that the card did not work. The tenants testified that since the card did not work, they have not been able to do

laundry. The tenants testified that since then, they have not tried to get their own card and load it with funds. The tenants testified that the card reader must be broken and that the landlord has not fixed it. The tenants testified that they want the landlord to fix the card reader on the laundry machines. The tenants testified that they do not want to download the app to do their laundry because if their phones break they won't be able to have access.

The agent testified that no other tenants have reported the card machine not working and that most use the app so that they don't have to physically load cards with funds. The agent testified that the operation of the laundry is contracted out to a third party and that if tenants have problems with the laundry machines they are instructed to contact the company directly to resolve them.

The agent testified that if the tenants have further problems with the card reader they will request the laundry company to repair the card reader.

Analysis

Section 32 of the Act guides the tenants' and landlord's obligations in respect repairs.

Landlord and tenant obligations to repair and maintain

- 32** (1) 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.
- (2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.
- (3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.
- (4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1) (a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Windows

Based on the testimony of both parties I find that the master bedroom and living room windows at the subject rental property require repair/replacement pursuant to section 32 of the *Act* as they are damaged. I find that the landlord has already taken steps to repair/replace the windows in accordance with section 32 of the *Act*. I order the landlord to repair/replace the damaged windows as soon as the windows are delivered and skilled labour can be arranged.

Heaters

Based on the testimony of both parties I find that the heaters in the subject rental property have had issues and that the landlord has acted to repair the master bedroom heater. I accept the tenant's testimony that the heater in the hallway and the spare room are also now having issues. Pursuant to section 32 of the *Act* I order the landlord to hire a licensed electrician to inspect the hallway and spare bedroom heaters and to repair/replace them as necessary.

Laundry

I am not satisfied by the testimony and evidence of the tenants that the laundry machine card readers are currently malfunctioning as the tenants have not tried to use them since September of 2022 and other tenants have not complained of similar issues with the card readers. While there may have been some issue with the card provided to the tenants by the landlord in September of 2022, I find that the tenants have not proved that the card reader on the laundry machines were ever damaged. I therefore dismiss the tenants' claim for repair of the laundry card readers.

Filing fee

I find that the tenants are entitled to recover the \$100.00 filing fee from the landlord as they were successful in a portion of their application for dispute resolution.

Section 72(2) of the *Act* states that if the director orders a landlord to make a payment to the tenant, the amount may be deducted from any rent due to the landlord. I find that the tenants are entitled to deduct \$100.00, on one occasion, from rent due to the landlord.

Conclusion

I order the landlord to repair/replace the windows in the master bedroom and the living room as soon as possible.

I order the landlord to hire a licensed electrician to inspect the hallway and spare bedroom heaters and to repair/replace them as necessary.

The tenants are permitted to deduct \$100.00 from 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 *ACT Tenancy Act*.

Dated: May 10, 2023

Residential Tenancy Branch