



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDCT, RR, RP, OLC, FFT

Introduction

This hearing was convened as a result of the Tenants' Application for Dispute Resolution. A participatory hearing, by teleconference, was held on August 24, 2023. The Tenants applied for multiple remedies under the *Residential Tenancy Act* (the "Act").

The Landlord and the Tenant both attended the hearing. All parties provided affirmed testimony and were provided the opportunity to present evidence orally and in written and documentary form, and to make submissions to me. Both parties confirmed receipt of each other's documentary evidence. No service issues were raised.

I have reviewed all oral and written evidence before me that met the requirements of the Rules of Procedure. However, only the evidence submitted in accordance with the rules of procedure, and evidence that is relevant to the issues and findings in this matter are described in this Decision.

Preliminary and Procedural Matters

The Tenant has applied for multiple remedies under the *Act*, a number of which were not sufficiently related to one another.

Section 2.3 of the Rules of Procedure states that claims made in an Application must be related to each other and that arbitrators may use their discretion to dismiss unrelated claims with or without leave to reapply.

After looking at the list of issues before me at the start of the hearing, I determined that the most pressing and related issues in this application deals with the Tenants' request

for repairs to the rental unit. As a result, I exercise my discretion to dismiss, with leave to reapply, all of the grounds on the Tenant's application with the exception of the following ground:

- I want repairs made to the unit, site or property. I have contacted the landlord in writing to make repairs but they have not been completed

Issue(s) to be Decided

- Is the Tenant entitled to an order requiring the Landlord to make repairs to the rental unit?

Background and Evidence

The Tenant explained that he has a long history with the Landlord's agents and their failure to take his repair requests seriously. The Tenant referred to numerous concerns relating to the heating system, and the windows (security), and stated that it took many months for the Landlord to complete the emergency repairs. The Tenant eventually confirmed that these repairs have been completed (heating system and rear window).

The Tenant was asked to explain which repairs are still outstanding at this time, and he stated that there is an issue with the second bathroom in the house. More specifically, the Tenant stated that he is unable to properly close the shower curtain due to the way in which the pipes are mounted to the wall. The Tenant stated that the shower works properly, but he wants this pipe to be re-mounted so that it is easier to close the shower curtain and keep the water off the adjacent wall.

The Tenant also stated that the floors are "not to code" and pointed out that they give giant "splinters". The Tenant also feels the Landlord (agents of) have discriminated against him because he is a musician.

The Landlord feels they have always responded to his concerns in a timely manner and they refute that there is any sort of discrimination. The Landlord appeared somewhat confused about why the Tenant is so unhappy with the rental unit, since they stated they do their best to fix things in a timely manner. The Landlord also stated that the shower the Tenant is taking issue with is an old clawfoot bathtub, with an older style mounted showerhead, which cannot be easily remounted as the Tenant is asserting. The Landlord pointed out that this house is over 100 years old, and has some older features, which work reasonably well for their age.

Analysis

In this review, I will not attempt to resolve all evidentiary conflicts, and will focus on evidence and testimony as it relates directly to my findings. The onus is on the Tenant to prove his claim.

Section 32 of the *Act* mandates the Tenant's and Landlord's obligations in respect of repairs to the rental unit and provides as follows:

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.

The *Residential Tenancy Act Regulation – Schedule: Repairs* provides further instruction to the Landlord as follows:

- 8** (1) Landlord's obligations:
- (a) The landlord must provide and maintain the residential property in a reasonable state of decoration and repair, suitable for occupation by a

tenant. The landlord must comply with health, safety and housing standards required by law.

(b) If the landlord is required to make a repair to comply with the above obligations, the tenant may discuss it with the landlord. If the landlord refuses to make the repair, the tenant may make an application for dispute resolution under the *Residential Tenancy Act* seeking an order of the director for the completion and costs of the repair

I note the Tenant raised several issues with respect to repairs of the furnace and the rear window. However, he stated that these have recently been fixed. As such, I decline to make any orders with respect to these items.

With respect to the shower, I note the Tenant acknowledged that, generally, the shower works fine, but the issue is with the type and location of the mounted pipes that service the shower. I acknowledge that the shower curtain may not close to the Tenant's satisfaction, and that he is concerned about water escaping and damaging the adjoining walls. However, I am not satisfied that there is an issue with the shower such that it does not comply with section 32 of the Act. I am not satisfied that the manner in which the pipes are fixed to the wall (which impedes the shower curtain) is inappropriate for the age and character of the house, and I am not satisfied that this issue does not comply with health, safety, and housing standards required by law.

Further, with respect to the Tenant's issue with the flooring, I note he stated the floors are "not to code". However, he did not elaborate on this and explain what code he was referring to or how it was non-compliant. The Tenant only referred to getting splinters from the flooring. However, I note this house is over 100 years old, and has wood flooring. I find some splintering may be normal for floors of this age. In any event, I am not satisfied that this issue is a breach of section 32 of the Act.

I decline to make any orders for repairs.

As the Tenant was not successful with their application, I decline to award the recovery of the filing fee.

Conclusion

The Tenant's application for repairs, is dismissed, without leave.

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: August 29, 2023

Residential Tenancy Branch