



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

A matter regarding Tribe Management Inc
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes RP, FFT

Introduction

The Tenants filed an Application for Dispute Resolution on May 8, 2023 seeking repairs to the rental unit, and reimbursement of the Application filing fee.

The matter proceeded by way of a hearing on August 29, 2023 pursuant to s. 74(2) of the *Residential Tenancy Act* (the “Act”). In the conference call hearing I explained the process and provided the attending party, the Tenant’s (hereinafter, the “Tenant”) the opportunity to ask questions.

Preliminary Matter – Tenant’s service of documents to the Landlord

In order to proceed with this matter, I must be satisfied that the Tenant made reasonable attempts to serve the Landlord with the Notice of Dispute Resolution Proceeding for this hearing. This means the Tenant must provide proof that they served that document using a method allowed under s. 89 of the *Act*, and I must accept that evidence.

In the hearing the Tenant set out that they served the Notice of Dispute Resolution Proceeding to the Landlord in person at the Landlord’s resident manager office. The person who received this in the office asked the Tenant for an email of the material as well which the Tenant also provided. They also used registered mail on May 9, the tracking record of which confirmed delivery to the Landlord on May 15.

In the hearing the Tenant confirmed that their service in each instance contained their prepared evidence for this hearing.

Based on the detail in the submissions on this from the Tenant, I accept that they served the Notice of Dispute Resolution Proceeding, as well as their evidence, in each of three ways that comply with s. 89(1)(b), (c), and (f) of the *Act*. I proceeded with the hearing in the Landlord's absence. There was no explanation from the Landlord to the Tenant on why they would not attend the scheduled hearing.

Issue(s) to be Decided

Is the Landlord obligated to repair issues identified by the Tenant, pursuant to s. 32 of the *Act*?

Is the Tenant eligible for reimbursement of the Application filing fee, pursuant to s. 72 of the *Act*?

Background and Evidence

The Tenant provided a copy of the tenancy agreement for the rental unit. Both parties signed the agreement on May 26, 2021 for the tenancy starting on May 1, 2017. The rent agreed to was \$1,200, and over the course of the tenancy this increased to \$1,335. The agreement sets out obligations for both the Landlord and the Tenant regarding repairs. These terms conform with the *Act*, and there was no other addendum or piece of the agreement stating otherwise.

In the Application, the Tenant stated the problem thus:

Bathroom ceiling needs to be fixed. There was a leak that required the ceiling to need to be cut out and replaced with aquaboard. First written communication requesting the sealing and painting was in June of 2021. There have been other issues including replacement of bathtub caulking, kitchen sink needing to be tightened down, and kitchen drawers needing repairs.

[Photo evidence included] Outlining bathtub issues and showing the broken slide on the kitchen drawers. This applies to 3 out of 5 drawers, but the last 2 feel like they're on their way too.

[document evidence] Some email chains showing the request and constant reminders for maintenance. Also shown in the more recent emails. the maintenance team ignores my requests and does not respond.

In the hearing, the Tenant confirmed that the Landlord “re-drywall and paint” the ceiling in the bathroom. This work was completed on June 16, 2023.

The Tenant clarified that the ongoing issues are:

- bathtub caulking/seal
- kitchen sink
- kitchen drawers
- balcony wall: beside the entrance there is a yellowing of drywall, with cracking and splitting between the wall and the ceiling

The Tenant in the hearing set out key dates from their record of correspondence:

- June 16, 2021: their earliest correspondence on the issues
- December 12, 2021: their correspondence to the Landlord about the balcony wall area
- March 12, 2022: correspondence about the kitchen drawers

The Tenant stated they may have mentioned things in person to the Landlord, but they had no date to refer to and stated they would not be able to prove this in any event.

The Tenant was explicit on the point that to date the Landlord still had not completed these items of repair. The Landlord’s response to the Tenant when the Tenant queries the Landlord about these issues in person is, typically, “I’ll get it” etc. The Tenant stated their impression in the hearing that there would continue to be issues of repair going forward, and the Landlord was likely not going to respond to requests or follow through with completion of any necessary work in the rental unit despite requests.

In the evidence, the Tenant provided the following:

- 7 pictures showing details of the repairs requested
- June 16, 2021 email outlining bathtub caulking, kitchen sink, with the Landlord’s query the following day on an appropriate time to start work on the bathroom ceiling – the email chain continues through to September 30, 2021 with the Tenant’s repeated requests
- March 13, 2022: the Tenant’s first request for a kitchen drawer repair
- December 2, 2021: reminder of kitchen sink being “more than just loose” and leaking, bathtub caulking

- December 14, 2021 email request to the Landlord about repairs previously requested
- emails from April 6, 2022 through to February 14, 2023 with repeated queries and requests for response to the Landlord
- email from April 24, 2023 querying on the status of repairs for: drawers in kitchen, mould on the bathtub caulking, loose kitchen sink, and “patio [i.e., balcony] sidewall has some discolouration where the wall and ceiling connect”

Analysis

The *Act* s. 32 sets out a landlord’s obligation to repair and maintain residential property. This is in a state that “complies with the health, safety and housing standards required by law.”

I find the issues listed by the Tenant, being ongoing, show the state of the rental unit is not in compliance with health or safety standards. I find the kitchen drawers being broken, and the kitchen sink being not attached pose particular hazards and risk of injury to the Tenant.

I find the Landlord is positively obligated to repair and maintain the rental unit as long as they obtain rent from tenants who live in the rental unit property. The Landlord did not attend the hearing to speak to the matter, despite being served in triplicate by the Tenant. There is no evidence the Landlord fulfilled their obligation to maintain the rental unit in a state that complies with health and safety standards.

Even though the Landlord completed work on the bathroom ceiling, I find the Landlord otherwise has not substantially addressed the concerns of the Tenant here. There is no record of the Landlord accepting responsibility for repairs. As stated above, I find it surprising that the Landlord appeared to not be bothered to attend the hearing to accept the responsibility of making repairs in the rental unit. I find there is no communication from the Tenant that is untoward or demanding in nature, and the Tenant appears polite throughout the record. The repairs are not difficult to accomplish in fact, and it begs the question on why the Landlord just can’t get repairs completed.

I order the Landlord to complete repairs on the following:

- bathtub caulking

- kitchen sink attachment, replacing the kitchen sink and/or kitchen counter if necessary to complete the repair
- kitchen drawers, replacing the drawers if necessary to complete the repair

The Tenant requested the Landlord's inspection of the balcony wall area, and the Landlord has not managed to complete a cursory inspection of that area. I find this is an effort by the Tenant at preventive maintenance, even making the Landlord aware of a potential larger issue that may be concerning to the Landlord.

The Landlord must investigate forthwith, and then proceed with the needed work. The Tenant has made their requests known to the Landlord repeatedly for over 2 years with no resolution on persistent issues. I order completion of repairs, and the inspection, by September 15, 2023.

Under s. 7 of the *Act*, a landlord or tenant who does not comply with the legislation or their tenancy agreement must compensate the other for damage or loss. The *Act* s. 65 grants authority to make an order granting rent reduction:

. . . if the director finds that a landlord or tenant has not complied with the *Act*, the regulations or a tenancy agreement, the director may make any of the following orders:

(f) that past or future rent must be reduced by an amount that is equivalent to a reduction in the value of a tenancy agreement;

I find there has been a reduction in the value of the tenancy agreement. Again, I find it unacceptable that the Landlord did not attend the hearing to accept responsibility.

Going forward, I authorize the Tenant to deduct the amount of \$100 per month from rent until the Landlord complies with the repairs listed above. This includes an inspection of the balcony door area. I order a reduction in rent for September 2023, and should the Landlord not complete the repairs as needed by September 15, the reduction in rent shall continue until the Landlord completes all repairs and an inspection of the balcony door area.

As the Tenant was successful in this Application, I find the Tenant is entitled to recover \$100 of the filing fee they paid for this Application. I authorize the Tenant to withhold the amount of \$100 from one future rent payment.

Conclusion

I order the Landlord to complete repairs as listed by the Tenant by September 15, 2023.

I order the Landlord to complete an inspection and/or remediation of the affected area outside the rental unit balcony door by September 15, 2023.

I authorize the Tenant to withhold \$100 from future rent payments until the Landlord complies with the above noted orders for inspection and repairs. This reduced rent commences in September 2023. This reduction applies *only* if the Landlord fails to comply with the specific orders noted above.

I authorize the Tenant to withhold \$100 from one future rent payment as reimbursement for the Application filing fee.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under s. 9.1(1) of the *Act*.

Dated: August 30, 2023

Residential Tenancy Branch