



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Dispute Codes RP, FFT

Introduction

This hearing was convened as a result of the Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on August 22, 2023. The Tenant requested that the Landlord make repairs to the rental unit, site, or property, pursuant to the *Residential Tenancy Act* (the *Act*).

Both parties attended the hearings and provided affirmed testimony. All parties 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 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.

I note the Tenant stated he is also seeking rent reductions for the affected months. However, that issue is not part of this proceeding, and this decision will focus on the request for repairs only.

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 stated that he is looking for the landlord to make repairs to his shower wall, and to remediate the mould in the adjoining area. The Tenant explained that there was a significant shower leak in November 2022, and some repairs were completed around that time. The Tenant stated that he was involved in some of the repairs. However, the Landlord failed to sufficiently clean up the mould, before closing in the shower wall, and this made him sick in December 2022. The Tenant asserts he was in the hospital for this issue.

At this point, the Tenant wants the Landlord to remove the shower wall panel, properly remediate the mould, then complete the shower repairs. The Tenant also asked for the Landlord to provide him with another rental unit to live in while the repairs are being completed, and also for help moving his items, since he has disabilities.

The Landlord stated that he only recently took over property management of the unit in the spring of 2023. However, he stated that he is willing to complete the repairs, including addressing the mould behind the walls. However, he stated, as per the reports provided into evidence, that the rental unit needs to be empty for the repairs to be completed, due to the potential for mould.

The Tenant was okay with moving out of the rental unit while the repairs are completed. However, he wanted to be provided with a schedule and timeline before doing so.

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.

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

Also, I turn to *Residential Policy Guideline #40 - Useful Life of Building Elements*, which states as follows:

This guideline is a general guide for determining the useful life of building elements for determining damages which the director has the authority to determine under the Residential Tenancy Act and the Manufactured Home Park

Tenancy Act . Useful life is the expected lifetime, or the acceptable period of use, of an item under normal circumstances.

I have reviewed the evidence and testimony on this matter. I find there is sufficient evidence to show that the rental unit requires repairs to the shower wall, and potentially the mould remediation behind the wall panel in that area, in order to be compliant with section 32 of the Act. The Landlord agreed to do the repairs, but just needs the Tenant to move his things out of the rental unit while the repairs are going on. I find the Landlord must make these repairs. I am satisfied, based on the mould reports, that the rental unit should be vacant for the repairs. As such, I find it is important to allow the Tenant some time to pack up his items, and move temporarily, prior to remediations and repairs commencing. The Tenant may move back in following the repairs, with the same monthly rent, and the same tenancy agreement.

In consideration of this, I order the Landlord to start the repairs no later than 2 weeks from the date the Tenant vacates the rental unit. If the Tenant fails to temporarily vacate (including possessions) the unit while the repairs are being made, then the Landlord is not required to make the repairs until such time as the Tenant temporarily moves out. I make no orders regarding when this work must be completed by, as it depends on contractor availability/resourcing.

I note the Landlord offered to let the Tenant move into another similarly sized rental unit in the building for the duration of the renovations. The Landlord also offered to help move some of the Tenant's belongings if he packed his items properly. However, I decline to make any orders on these matters, and it is up to the parties to negotiate and work through any of those offers. I note the Tenant did not have renter's insurance, so he did not have coverage but the Landlord appeared willing to assist where he could.

Since the Tenant was largely successful with this application, I award the recovery of the filing fee. The Tenant may deduct \$100.00 from one future rent payment.

Conclusion

The Tenant's application for repairs, is granted, as noted above.

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 25, 2023