



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 Tenant's Application for Dispute Resolution. A hearing by telephone conference was held on August 31, 2023. The Tenant applied for multiple remedies, pursuant to the *Residential Tenancy Act* (the *Act*).

Both parties attended the hearing 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, and 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 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 deal with whether or not repairs are warranted, given the potential safety concerns. As a result, I exercised my discretion to dismiss all

of the grounds the Tenant applied for, with leave to reapply, with the exception of the following claim:

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

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

in this review, I will only address the facts and evidence which underpin my findings and will only summarize and speak to points which are essential in order to determine the issue identified above. Not all documentary evidence and testimony will be summarized and addressed in full, unless it is pertinent to my findings.

Generally, the tenancy started on or around September 7, 2022. The Tenants rented this house under a single tenancy agreement. Since that time, one of the Tenants, SD, fell down the stairs in the interior of the home. More specifically, the Tenant fell down the interior front door stairs on December 26, 2022, and suffered injuries requiring medical attention. The Tenant suffered stitched and several issues after her fall, and she filed this application, in part, to address her safety concerns with the front railing (lack thereof) in the front stairwell inside the home. The Tenant is seeking an order for the Landlord to install an additional graspable hand railing for safety, and to comply with the building code, in order for her to feel safe at the home.

The Tenant is also seeking a repair to a leaking sunroom panel. The Tenant stated that this panel leaks water when it rains and risks damaging the interior hardwood flooring.

The Landlord agreed to install an additional graspable hand railing on the front staircase where the Tenant previously fell. The Landlord stated this could be done in a couple of weeks. The Landlord pointed out that they were told by the Tenant last fall that there was a leak in the sunroom area, and they had this matter repaired and addressed, as per the documentary evidence showing work was completed, last December 10, 2022. The Tenants stated that the leak persisted, but they did not direct me to any documentary evidence to support this. The Landlord opined that the fix has been completed and they are not aware of any further leaks in the sunroom.

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 her 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

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.

With respect to the Tenant's request regarding the hand railing and the stairwell in the front entrance of the home, I note the Landlord agreed to fix this issue. I decline to make any findings about who is legally liable for injuries at this time, and I make no findings on the Landlord's compliance with building codes. However, with respect to the repair, I hereby order the Landlord to install a graspable hand railing on the stairwell in the front entrance of the home where the Tenant fell in December 2022. I order this be completed no later than 2 weeks following the date of this decision.

With respect to the request for repairs to the sunroom roof leak, I note this issue was already raised to the Landlord last fall, and the Landlord followed up and hired a contractor to complete some repairs to this area in December 2022. Although the Tenant stated that it is still leaking, I note she did not point out or highlight any evidence that corroborates this point. The Landlord stated the repair was completed and there shouldn't be an issue. I find the Tenant has failed to sufficiently demonstrate that a repair is required for this item. However, if the Tenant is able to document further leaks in this area, she should provide this to the Landlord so that repairs can be completed. If the parties are unable to resolve that matter, then the Tenant will have leave to reapply for this repair. However, at this time, her request is dismissed, with leave.

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

Conclusion

The Tenant's application for repairs, is partially 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: September 5, 2023

Residential Tenancy Branch