



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Ministry of Housing

A matter regarding SPRUCE HILL RESORT and
[tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP

Introduction

This hearing was convened by way of conference call concerning an application made by the tenant seeking an order that the landlord make emergency repairs for health or safety reasons.

The tenant attended the hearing, gave affirmed testimony and provided evidentiary material in advance of the hearing. However, the line remained open while the telephone system was monitored for 10 minutes prior to hearing any testimony and no one for the landlord joined the call.

The tenant has provided a Proof of Service document indicating that the landlord was served with the Notice of Dispute Resolution Proceeding on February 7, 2024 by attaching it to the landlord's door or other conspicuous place, with a witness. Because this application was made by way of the Expedited Hearing process, the tenant is permitted to serve the landlord by that method, and I find that the landlord has been served in accordance with the *Residential Tenancy Act*.

The landlord has provided evidentiary material, but I accept the undisputed testimony of the tenant that none of the evidence was provided to the tenant. Any evidence that a party wishes to rely on must be provided to the other party, even if they already have a copy, because it is important for all parties to know what is before me. Since the landlord has not joined the hearing and has not provided any evidence to the tenant, I decline to consider any of it.

Issue(s) to be Decided

Has the tenant established that the landlord should be ordered to make emergency repairs for health or safety reasons?

Background and Evidence

The tenant testified that this month-to-month tenancy began on June 10, 2023 and the tenant still resides in the rental unit. There is no written tenancy agreement, however the tenant testified that rent was \$1,800.00 per month, until the tenant had an ex-partner charged with assault causing bodily harm. Then rent was reduced to \$800.00, and \$300.00 would be paid by the tenant's ex-partner. The landlord told the tenant that rent for January, 2024 would be \$800.00, but the tenant doesn't know what the landlord wants for February's rent. Rent is payable at the end of each month. No security deposit or pet damage deposit was collected by the landlord. The rental unit is a furnished chalet in a resort.

The tenant further testified that the landlord removed the lock that gives access to the rental unit and refused to replace it. The landlord also removed the beds. The tenant replaced the lock, but the landlord also had that removed. Photographs have been provided by the tenant for this hearing.

Analysis

The *Residential Tenancy Act* states:

33 (1) In this section, "**emergency repairs**" means repairs that are

- (a) urgent,
- (b) necessary for the health or safety of anyone or for the preservation or use of residential property, and
- (c) made for the purpose of repairing
 - (i) major leaks in pipes or the roof,
 - (ii) damaged or blocked water or sewer pipes or plumbing fixtures,
 - (iii) the primary heating system,
 - (iv) damaged or defective locks that give access to a rental unit,
 - (v) the electrical systems, or
 - (vi) in prescribed circumstances, a rental unit or residential property.

(2) The landlord must post and maintain in a conspicuous place on residential property, or give to a tenant in writing, the name and telephone number of a person the tenant is to contact for emergency repairs.

(3) A tenant may have emergency repairs made only when all of the following conditions are met:

- (a) emergency repairs are needed;
- (b) the tenant has made at least 2 attempts to telephone, at the number provided, the person identified by the landlord as the person to contact for emergency repairs;
- (c) following those attempts, the tenant has given the landlord reasonable time to make the repairs.

(4) A landlord may take over completion of an emergency repair at any time.

(5) A landlord must reimburse a tenant for amounts paid for emergency repairs if the tenant

- (a) claims reimbursement for those amounts from the landlord, and
- (b) gives the landlord a written account of the emergency repairs accompanied by a receipt for each amount claimed.

(6) Subsection (5) does not apply to amounts claimed by a tenant for repairs about which the director, on application, finds that one or more of the following applies:

- (a) the tenant made the repairs before one or more of the conditions in subsection (3) were met;
- (b) the tenant has not provided the account and receipts for the repairs as required under subsection (5) (b);
- (c) the amounts represent more than a reasonable cost for the repairs;
- (d) the emergency repairs are for damage caused primarily by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(7) If a landlord does not reimburse a tenant as required under subsection (5), the tenant may deduct the amount from rent or otherwise recover the amount.

In this case, I accept the undisputed testimony of the tenant that the landlord has removed the locks to the rental unit, which is contrary to the law, and I order that the landlord replace the locks IMMEDIATELY.

There is no explanation of why the landlord would remove the locks or the locks placed there by the tenant, unless to enable the landlord to enter the rental unit. The *Act* sets out that the landlord's right to enter a rental unit is restricted:

29 (1) A landlord must not enter a rental unit that is subject to a tenancy agreement for any purpose unless one of the following applies:

- (a) the tenant gives permission at the time of the entry or not more than 30 days before the entry;
- (b) at least 24 hours and not more than 30 days before the entry, the landlord gives the tenant written notice that includes the following information:
 - (i) the purpose for entering, which must be reasonable;
 - (ii) the date and the time of the entry, which must be between 8 a.m. and 9 p.m. unless the tenant otherwise agrees;
- (c) the landlord provides housekeeping or related services under the terms of a written tenancy agreement and the entry is for that purpose and in accordance with those terms;
- (d) the landlord has an order of the director authorizing the entry;
- (e) the tenant has abandoned the rental unit;
- (f) an emergency exists and the entry is necessary to protect life or property.

(2) A landlord may inspect a rental unit monthly in accordance with subsection (1) (b).

Further, a landlord may not remove any service or facility provided to a tenant at the beginning of a tenancy, and I accept the undisputed testimony of the tenant that the landlord removed beds in the furnished suite. I order the landlord to return the beds.

Conclusion

For the reasons set out above, I hereby order the landlord to replace the locks to the rental unit IMMEDIATELY, and to not enter the rental unit except as provided in Section 29 of the *Residential Tenancy Act*.

I also order the landlord to return the beds.

This order is final and binding and may be enforced.

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: February 24, 2024

Residential Tenancy Branch