



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing

DECISION

Introduction

This hearing dealt with two of the Tenant's Applications for Dispute Resolution under the *Residential Tenancy Act* (the "Act") for:

- An order requiring the Landlord to comply with section 32 of the Act, the regulation, and tenancy agreement under section 62 of the Act.
- An order requiring the Landlord to comply with section 33 of the Act, the regulation, and tenancy agreement under section 62 of the Act.
- A rent reduction for repairs, services or facilities agreed upon but not provided under section 65 of the Act.
- Authorization to recover the filing fee for application, file 910105838, from the Landlord under section 72 of the Act.
- Authorization to recover the filing fee for application, file 910138818, from the Landlord under section 72 of the Act.

Service of Notice of Dispute Resolution Proceeding

- I find that the Landlord was serviced with the Proceeding Package in accordance with the orders issued in the interim decision dated March 28, 2024, and that they are duly served in accordance with the Act.

Service of Evidence

- Based on the submissions before me, I find that the Tenant's evidence was served to the Landlord in accordance with section 88 of the Act.
- No evidence was received by the Residential Tenancy Branch from the Landlord.

Issues to be Decided

- Are the Tenants entitled an order requiring the Landlord to comply with section 32 of the Act, the regulation, and tenancy agreement under section 62 of the Act?
- Are the Tenants entitled to a rent reduction for repairs, services or facilities agreed upon but not provided under section 65 of the Act?
- Are the Tenants entitled an order requiring the Landlord to comply with section 33 of the Act, the regulation, and tenancy agreement under section 62 of the Act?
- Are the Tenants entitled authorization to recover the filing fee for application file# 910105838 from the Landlord under section 72 of the Act?
- Are the Tenants entitled authorization to recover the filing fee for application file 910138818 from the Landlord under section 72 of the Act?

Background and Evidence

I have reviewed all evidence, including the testimony of the parties, but will refer only to what I find relevant for my decision.

Evidence was provided showing that this tenancy began on June 1, 2022, with a monthly rent of \$2,400.00, due on the first day of the month, and a security deposit in the amount of \$1,200.00. The Tenant submitted a copy of the tenancy agreement into documentary evidence.

The Tenant submitted that the Landlord has refused to make repairs, emergency and regular, to the rental unit and property since they moved in. The Tenant testified that they had a previous hearing with the Residential Tenancy Branch in October 2023 (file number recorded on the style of cause page of this decision).

The Tenant submitted that they told the Landlord that the septic system tank needed to be emptied in September 2023 but that the Landlord refused to take care of this and that it got to the point where the Tenants had no choice but to pay for the septic tank emptying service themselves. The Tenant submitted that as of the date of these proceedings, the Landlord has refused to pay for this service call. The Tenant is requesting that the Landlord be ordered to comply with section 33 of the Act, to make emergency repairs to the rental property and to pay for the emergency repairs completed by the Tenant.

The Tenant submitted that the washing machine included in this tenancy has not worked since September 2022, and that the Landlord has refused to repair the machine. The Tenant is requesting that the Landlord be ordered to comply with section 32 of the Act, to make regular repairs to the rental property.

The Tenant also submitted that it has cost them \$50.00 a week, or \$200.00 per month in laundromat fees and travel costs to do their laundry at a local laundromat. The Tenant is requesting a retroactive rent reduction due to the loss of the use of their washing machine going back to September 2022.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

Are the Tenants entitled an order requiring the Landlord to comply with section 32 of the Act, the regulation, and tenancy agreement under section 62 of the Act?

I accept the undisputed testimony of the Tenants that the Landlord has not completed repairs to the washing machine for this tenancy, and that the washing machine included in this tenancy has not worked, going back to September 2022.

Section 32 of the Act states that a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, and having regard to the age, character, and location of the rental unit, makes it suitable for occupation by a tenant.

I find that the Tenants have established their claim that the Landlord is not in compliance with section 32 of the Act by not repairing the washing machine for this tenancy.

Therefore, I order the Landlord to comply with section 32 of the Act, by completing all repairs and maintenance for this rental property, under section 62 of the Act.

Are the Tenants entitled to a rent reduction for repairs, services or facilities agreed upon but not provided under section 65 of the Act?

I accept the submission of the Tenants that the washing machines included in this tenancy agreement has not worked since September 2022, a total of 21 rental periods as of the date of this decision.

I have reviewed the tenancy agreement signed between these parties and I find that this agreement includes a washing machine. Section 27 of the Act states the following regarding the removal of a service that was included in a tenancy agreement, stating the following:

Terminating or restricting services or facilities

27 (1) A landlord must not terminate or restrict a service or facility if

(a) the service or facility is essential to the tenant's use of the rental unit as living accommodation, or

(b) providing the service or facility is a material term of the tenancy agreement.

(2) A landlord may terminate or restrict a service or facility, other than one referred to in subsection (1), if the landlord

(a) gives 30 days' written notice, in the approved form, of the termination or restriction, and

(b) reduces the rent in an amount that is equivalent to the reduction in the value of the tenancy agreement resulting from the termination or restriction of the service or facility.

I find that the Landlord's refusal to repair the washing machine for this tenancy constitutes a removal of a service included in the tenancy agreement, and that pursuant to section 27(2b) the Tenants are entitled to rent reduction equivalent to the reduction in contracted service of the washing machine.

I also accept the submission of the Tenants that they travel to a local laundromat to complete their washing, once a week at a cost of \$200.00 per month.

Consequently, I find that the Tenants are entitled to a rent reduction of \$200.00 per month, and that the rent for this tenancy is retroactively reduced to \$2,200.00 per month effective September 2022.

The rent for this tenancy can be returned to the original amount agreed to in the Tenancy agreement once the Landlord repairs the washing machine for this tenancy.

If there is any dispute as to whether the Landlord has completed the repair on the washing machine, the Landlord must submit an application for dispute resolution requesting an end to the rent reduction, supported by evidence of the completion of the repair.

Additionally, I grant the Tenants a monetary award for the retroactive rent reduction between September 2022 to May 2024, a [period of 21 months, in the amount of \$4,200.00.

Are the Tenants entitled an order requiring the Landlord to comply with section 33 of the Act, the regulation, and tenancy agreement under section 62 of the Act?

I accept the undisputed testimony of the Tenants that they completed emergency repairs to the septic system for the rental property and the Landlord has refused to pay them back for their out-of-pocket expenses to complete the required repairs. Section 33 of the *Act* states the following:

Emergency repairs

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.*

Pursuant to section 33(1b) of the *Act*, I find that the repairs required to the septic system for this rental property constitute an Emergency Repair of a health or safety nature and that these repairs had to be completed by the Tenants as the Landlord refused to complete the repairs.

I find that the Tenants have established their claim that the Landlord is not in compliance with section 33 of the *Act* by not repairing or paying for the Tenants costs to repair the septic system for this tenancy.

Therefore, I order the Landlord to comply with section 33 of the Act, by completing all emergency repairs and paying the Tenants back for any cost they have paid to make emergency repairs themselves, under section 62 of the Act

Are the Tenants entitled to recover the filing fee for application file number 910105838 from the Landlord?

As the Tenants were successful in this application, the Tenant's application for authorization to recover the filing fee for application file number 910105838 from the Landlord under section 72 of the Act is granted.

Are the Tenants entitled to recover the filing fee for application file number 910138818 from the Landlord?

As the Tenants were successful in this application, the Tenant's application for authorization to recover the filing fee for application file number 910138818 from the Landlord under section 72 of the Act is granted.

Conclusion

I find that the Landlord breached section 32 of the *Act* when they failed to repair the washing machine for this tenancy as required under the Act.

I find that the Landlord breached section 33 of the *Act* when they failed to repay the Tenant for emergency repairs the Tenant completed for the rental property. The Tenant is within their rights to deduct the cost of emergency repairs from their rent.

The Landlord is ordered to comply with sections 32 and 33 of the Residential tenancy Act, by making repairs and maintaining the rental property at their own expense.

I order that the rent for this tenancy is retroactively reduced by \$200.00 per month to \$2,200.00 per month, effective September 1, 2022.

I order that the rent for this tenancy will remain at the reduced amount of \$2,200.00 per month until the Landlord repairs the washing machine included in this tenancy agreement, at the Landlord's expense.

I grant the Tenants a Monetary Order in the amount of **\$4,400.00** under the following terms:

Monetary Issue	Granted Amount
A Monetary Order for the recovery of the retro active rent reduction of \$200.00 per month for 21 months between September 2022 to May 2024.	\$4,200.00
A Monetary Order for the recovery of the filing fee for application number 910105838 from the Landlord under section 72 of the Act.	\$100.00
A Monetary Order for the recovery of the filing fee for application number 910138818 from the Landlord under section 72 of the Act.	\$100.00
Total Amount	\$4,400.00

The Tenants are provided with this Order in the above terms and the Landlord must be served with **this Order** as soon as possible. Should the Landlord fail to comply with this Order, this Order may be filed in the Small Claims Division of the Provincial Court and enforced as an Order of that Court.

Pursuant to section 72(2a) of the Act the Tenants are within their rights to deduct the amounts awarded in this decision from their rent for this tenancy.

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: May 2, 2024

Residential Tenancy Branch