

## **DECISION**

### **Introduction**

The Tenants filed an Application for Dispute Resolution under the *Residential Tenancy Act* (Act) for:

- cancellation of the landlord's One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to section 47 of the Act
- an order requiring the landlord to comply with the Act, regulation or tenancy agreement pursuant to section 62 of the Act
- authorization to recover the filing fee for this application from the landlord pursuant to section 72 of the Act

The Landlord filed a further application for Dispute Resolution under the Act for:

- an Order of Possession based on a One Month Notice to End Tenancy for Cause (the One Month Notice) pursuant to sections 47 and 55 of the Act
- A Monetary Order for damage to the rental unit or common areas pursuant to sections 32 and 67 of the Act
- authorization to recover the filing fee for this application from the Landlord under section 72 of the Act

### **Service**

The Landlord acknowledged service of the Tenant's dispute notice dated February 26, 2024. It was unclear in the hearing what if anything, the Tenant served to the Landlord in terms of evidence. She was unable to provide tracking numbers in support of service. Therefore I find that the Landlord was not properly served with the Tenant's evidence and I decline to consider the Tenant's written evidence, however I will consider her oral evidence in the hearing.

The Tenant acknowledged service of the Landlord's dispute notice dated April 5, 2024 and evidence. I find that the Tenant was served based on sections 88 and 89 of the Act.

## **Background and Evidence**

The tenancy commenced on July 1, 2015 and is currently month to month. Rent is \$1,350.00 per month due on the first of the month. The landlord holds a security deposit in the amount of \$675.00. The Tenant still occupies the rental unit.

On August 7, 2023 the Tenant contacted the Landlord and advised that her toilet was leaking. The Landlord attended at the rental unit and determined the cause of the leak was due to heavy Drano use that damaged the pipes. The Tenant had admitted to the Landlord she used Drano.

Further the Landlord testified that the sewer pipes to the rental unit became plugged. Upon excavating the pipes the Landlord determined that the pipes were blocked with baby wipes. The Landlord provided pictures of the blockage in evidence. The Landlord alleged that the Tenant is in breach of clauses 9 and 13 of the tenancy agreement. The Landlord testified that the Tenant poured Drano down the pipes and damaged them. Further the pipes were completely blocked with baby wipes.

The Landlord provided pictures in evidence showing that the pipes are clogged baby wipes as well as the receipts for plumber charges, parts and labour. The cost of the plumber was \$810.16. The cost for parts to repair the pipes was \$765.99. The Landlord is also claiming \$18,920.00 for labour. The Landlord explained that she and her husband performed the labour. She explained the work that she did along with her husband which required two people to work and they charged for 172 hours of work at \$110.00. The Landlords feel that this is a reasonable charge as they had to take time off work and a professional would have charged in excess of \$100.00 per hour. The Landlords provided an explanation of the hours need to complete the work with pictures of the work included and a description of what was done. The Landlords believed that this was the most inexpensive way to repair the damage.

The Landlord testified that the pipes previously had been in good condition.

The Landlord testified that the total cost to repair the pipes was \$20,496.59. The Landlord did not complete a move in condition inspection report together with the Tenant. The tenant has occupied the rental unit for 8 years. Landlord submitted a document explaining their labour charges which includes pictures and explanations of the work completed. The Landlords dug approximately 4 feet into the ground for approximately 15 feet. The work was complicated by the fact that there was a water line on top of the pipe. The blockage in the pipe was over 25 feet. All of the work had to

be completed by hand as there was a water line on top of the pipe, many tree roots in the area, and many rocks in the ground.

The Tenant denied causing the blockage. She stated that the pipes were made of asbestos cement and she stated that the material breaks down over time. The pipes are old and crumbling and not in good condition. Any wipes that were flushed were flushed over 5 years ago, and the Tenant admitted to flushing baby wipes. She believes that the Landlords may have damaged the pipes by their digging. The Tenant is not able to properly use the washroom even though the pipes are fixed. The Tenant believes that the Landlord damaged the pipes with their excavation work. The Tenant does not believe that the issue was caused by baby wipes alone but the age of the pipes contributed to the blockage. The blockage may have been caused by tree roots. The Tenant stated that the pipes should have been flushed out every year. The Tenant is also questioning the expertise of the Landlords in performing the work on the pipes. The Tenant denied using Drano in the toilet but admitting to using it in the bathtub.

Both parties provided extensive documentary evidence in support of their positions.

## **Analysis**

### **One Month Notice**

The Tenant received a One Month Notice dated February 16, 2024 with an effective date of March 31, 2024. The Tenant disputed the One Month Notice on February 26, 2024 and I therefore find that they Tenant applied for dispute resolution in the time required under the Act.

Section 7 of the Act states that a landlord or tenant who does not comply with the Act, the regulations or their tenancy agreement must compensate the affected party for the resulting damage or loss.

RTB Policy Guideline discusses compensation for loss. The purpose of compensation is to put the person who suffered the damage or loss in the same position as if the damage or loss had not occurred. It is up to the party who is claiming compensation to provide evidence to establish that compensation is due. In order to determine whether compensation is due, the arbitrator may determine whether:

- a party to the tenancy agreement has failed to comply with the Act, regulation or tenancy agreement;
- loss or damage has resulted from this non-compliance;

- the party who suffered the damage or loss can prove the amount of or value of the damage or loss; and
- the party who suffered the damage or loss has acted reasonably to minimize that damage or loss.

The One Month notice complies with the form and content requirements of section 52 of the Act. I also find that the Landlords have established cause for the notice as outlined below.

### Order of Possession

The Landlord is seeking an order of possession for the rental unit based on the issuance of the One Month Notice. The grounds listed in the notice are that the Tenant cause extraordinary damage to the property and that the Tenant did not complete required repairs. Based on the evidence I find that the Landlord has established that the Tenant caused a blockage in the sewer pipes by flushing baby wipes down the toilet. The Tenant admitted to flushing baby wipes and stated that was over 5 years ago. I also considered the photographic evidence of the Landlords showing the blockage in the pipes and that the blockage is from baby wipes. There is no evidence before me to suggest that there was any other cause of the blockage, such as tree roots, and I find those suggestions to be speculative.

The Tenants stated that part of the issue of the blockage is the fact that the pipes were made of concrete asbestos and were old and crumbling. However the Tenant provided no evidence in support of this position. I have no evidence before me about the material the pipes or made of, or the condition of the pipes. Further I have no evidence before me to show that the condition of the pipes contributed to the blockage.

I have also considered that the Tenant admitted to use of Drano. While she only admitted to using it in the bathtub, I find that the Tenant was prohibited by the Landlords from using Drano, however will make no finding as to how the use of Drano contributed to the blockage of the pipes.

The Landlords testified that the blockage in the pipe was more than 25 feet and extensive work was required to dig out the pipe, clear the blockage and replace the pipe. I have considered the photographic evidence provided which documents step by step the work required to clear the blockage and replace the pipe. I find based on the Landlord's undisputed evidence of the work required, that the Tenant caused extraordinary damage to the property by flushing baby wipes down the toilet.

The Landlord is entitled to an order of possession for the rental unit effective June 30, 2024. In ordering this possession date, I take into account this a longer term tenancy.

### Monetary Order

The Landlord is also seeking a monetary order for the damage and the expense of repairing the blockage in the pipes. The amounts claimed are:

Plumber: \$810.16

Parts: \$765.99

Labour: \$18,920.00

The Tenant did not provide any documentary evidence to dispute any of the expenses claimed. The Tenant did question the labour cost during the hearing but did not provide any evidence other than their opinion during the hearing to refute the Landlords' evidence. I find the Tenant's evidence is of little weight as they provided no evidence to support their opinion.

The cost of the plumber was incurred due to the blockage and I find it reasonable for the Landlords to contact a plumber to assess a blockage in their pipes. The Landlord provided the plumber's receipt in evidence. This claim is granted and the Landlords are entitled to \$810.16.

The pipe needed to be excavated, the blockage cleared and the pipes replaced. The Landlords provided receipts for the purchase of materials. This claim is granted and the Landlords are entitled to \$765.99.

The Landlords testified they completed the work themselves to save expenses. They provided extensive photographic evidence of the work done and the stages of the work. I find that they established the need to complete the work by hand as the water line placement is clearly visible in one of the pictures. The Landlords also provided a document in evidence detailing each stage of work and the hours to complete.

I find that the Landlord has established that the hours of labour were reasonable given the nature of the repair. The Landlords chose not to use a plumber to perform the work. There is no evidence to suggest that a plumber would have performed the repair more quickly given that the repairs had to be completed by hand, or that the use of a plumber would have reduced the cost of the repair.

The Landlords also testified that they based their rate on the hourly rate of a plumber. The Landlords discounted their rate due to the fact that the Landlords are not professionally qualified in these repairs. I also take into account that the Landlords are charging \$110.00 per hour for two people. However I find that the Landlords did not establish that their hourly rate was reasonable in comparison to a plumber. Therefore I find that this expense has been established by the Landlord and the amount of hours are reasonable. However, I find that \$100.00 per hour is a more reasonable rate given the lack of qualifications of the Landlord and the lack of evidence of plumbers' rates. The total amount granted for this claim is \$17,200.00.

The Landlords are entitled to a monetary order for damage and loss.

## **Filing Fee**

As the Landlords were successful in their application they are entitled to recover the \$100.00 filing fee for the application.

As the tenancy is ending I dismiss the Tenant's application to require the Landlord to comply with the Act, regulation or tenancy agreement.

## **Conclusion**

The Tenant's application is dismissed in its entirety, including the application for the return of the filing fee. The One Month Notice is valid and effective.

The Landlords are granted an order of possession for the rental unit effective June 30, 2024.

The Landlords are entitled to retain the security deposit in partial satisfaction of the claim. The Landlords are granted a monetary order as follows:

<b>Claim</b>	<b>Amount</b>
Plumber	\$810.16
Parts	\$765.99
Labour	\$17,200.00
Filing Fee	\$100.00
Security Deposit	(\$675.00)
<b>Total</b>	<b>\$18,201.15</b>

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

Dated: June 13, 2024

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Residential Tenancy Branch