

DECISION

Introduction

Pursuant to section 58 of the Residential Tenancy Act (the Act), I was designated to hear linked applications.

The Tenant's April 19, 2024 Application for Dispute Resolution under the Act is for:

- A Monetary Order for compensation for damage or loss under the act, residential tenancy regulation (regulation) or tenancy agreement, pursuant to section 67
- An Order to reduce the rent for repairs, services or facilities agreed upon but not provided, pursuant to section 65
- An Order requiring the Landlord to carry out repairs, pursuant to section 32
- An Order to restrict or suspend the Landlord's right of entry, under section 70
- An Order for the Landlord to comply with the act, the residential tenancy regulation (the regulation) and/or tenancy agreement, pursuant to section 62
- An authorization to recover the filing fee for this application, under section 72

The Tenant's May 1, 2024 Application for Dispute Resolution under the Act is for:

- An Order requiring the Landlord to carry out repairs, pursuant to section 32
- An Order for the Landlord to comply with the act, the residential tenancy regulation (the regulation) and/or tenancy agreement, pursuant to section 62

Service of Notice of Dispute Resolution Proceeding (Proceeding Package)

The Landlord acknowledges service of the Proceeding Package and is 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.

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Issues to be Decided

Is the Tenant entitled to a Monetary Order for damage or loss under the act, residential tenancy regulation (regulation) or tenancy agreement?

Should an order be made for the Landlord to carry out repairs?

Is the Tenant entitled to reduced rent for repairs, services or facilities agreed upon but not provided?

Should an order be made to restrict or suspend the Landlord's right to entry?

Should an order be made for the Landlord to comply with the act, the residential tenancy regulation (the regulation) and/or tenancy agreement?

Is the Tenant entitled to recover their filing fee from the Landlord?

Facts and Analysis

Both parties agree that the tenancy for the current rental unit in which the Tenants are occupying started on November 1, 2010, with a rent of \$1,147.00 due on the last day of each month, and a security deposit of \$573.00 paid on October 13, 2010. The Tenants previously occupied a different unit on a separate floor since 2004. The current rent is \$1,507.00 per month.

Is the Tenant entitled to a Monetary Order for damage or loss under the act, residential tenancy regulation (regulation) or tenancy agreement?

Awards for compensation are provided in section 7 and 67 of the Act. Accordingly, an applicant must prove the following:

1. That the other party violated the Act, regulations, or tenancy agreement;
2. That the violation caused the party making the application to incur damages or loss as a result of the violation;
3. The value of the loss; and,
4. That the party making the application did whatever was reasonable to minimize the damage or loss

Tenant IC asserts that harassment from the Landlord, as well as the failure to fulfil their obligations, has resulted in monetary loss for the Tenant. The total monetary claim under this section was \$8,360.00.

In their evidence, the Tenants presented an invoice for the replacement of a stolen vacuum as well as an explanation letter for the invoice dated April 17, 2024 – both were issued to the Tenants by the Landlord. At the time, the Landlord believed that the vacuum was stolen because the Tenant's daughter was seen on video allowing a

stranger into the common area of the property, and apparently, the same stranger was later seen exiting the common area with the Landlord's vacuum. The invoice was for \$399.53. Both parties confirmed that they later reported the stolen vacuum to the police. The Tenant states that this circumstance caused disturbance, stress and anxiety, and adversely affected their right to quiet enjoyment of the rental unit because the Landlord unfairly blamed the loss of the vacuum on them.

Tenant IC also claims losses of \$5,000.00 and \$1,200.00 because of missed opportunities to work on two projects for income. The Tenant submitted a letter from the employer who would have awarded her the projects, and the employer themselves pins the blame on the Landlord in this letter. The Tenant asserts that the alleged harassment by the Landlord, as well as time and resources required to deal with disputes with the Landlord, prevented her from securing these two projects.

The Tenant has also claimed loss in relation to mould on the inside of the windows, providing pictures to substantiate. The mould was affecting the quality of life and enjoyment of living in the rental unit. Policy Guideline #1 indicates that:

The tenant is responsible for cleaning the inside windows and tracks during, and at the end of the tenancy, including removing mould.

Although the Tenants have not quite met the legal test for monetary damages in any of these claims, I have decided to award nominal damages specifically related to the stolen vacuum ordeal. I find that the Landlord's decision to bill the Tenant for the stolen vacuum was an abuse of authority, and on the balance of probabilities, was used as a bullying tactic, which disturbed the Tenants' right to quiet enjoyment. For this, I award the Tenants \$502.33 which is 1/3 of the monthly rent; the Tenants are authorized to deduct this amount from rent that is due on July 31, 2024.

The Tenants have failed to prove that the Landlord is responsible for the Tenant's loss of income. I also conclude that the mould on the windows is the Tenant's responsibility. Therefore, all other claims assessed above are dismissed without leave to reapply.

Should an order be made for the Landlord to carry out repairs?

During the hearing, both parties confirmed that the stove and window repairs have been carried out.

The Tenants have applied to have the carpets replaced, as well as the cabinets. The Tenants rely on Policy Guideline #40, which contains data on the life span of building components, including carpets and cabinets. The Tenants assert that the useful life of the carpets – 10 years – has long been expired, and that the cabinets are also due for replacement. Both parties confirmed that there has been pre-existing requests for these to be replaced, but the Landlord so far has determined that replacement is not necessary.

Regarding the carpets, both parties confirmed that the carpets have not been replaced during the tenancy – meaning that the carpets would be nearly 14 years old if they were newly installed just before the tenancy started. Policy Guideline #40 indicates that carpets have a useful life of 10 years. The Tenants have also submitted photographs of the carpets, which are wrinkled and uneven in several areas.

Regarding the cabinets, both parties confirmed that the cabinets have not been replaced during the tenancy, however, the Landlord reported that some maintenance and repairs have been carried out. The Landlord could not say the actual age of the cabinets but asserts that they are around 20 years old. The Tenants have submitted photographs of the cabinets, which shows some of the finishing peeling off in some areas. Other parts show exposed cabinet material, and moderately eroded paint. From a functional perspective, it appears that a couple of the cabinets/drawers may not fully close but are generally operational.

I have determined that the carpets need to be replaced based on their age and state of repair; I find that the wrinkles in the carpet present a tripping hazard. I order the Landlord to replace the carpets with either new carpets or some other type of flooring by July 31, 2024. If the Landlord is unable to achieve this by the deadline, then the Tenants are authorized to deduct 10% off the monthly rent, in the amount of \$150.70, until the repairs are completed.

I cannot conclude that the cabinets must be fully replaced as they appear to be functional and do not present any hazards. However, I do find that the finishing in terms of paint and laminate needs to be repaired to prevent accelerated erosion of the cabinet material. I order the Landlord to re-laminate and re-paint the cabinets by July 31, 2024. Alternatively, the Landlord is at liberty to replace the cabinets instead, as I conclude they are about 23 years old and should be replaced within the next few years. If the Landlord is unable to achieve either of these solutions by the deadline, then the Tenants are authorized to deduct 10% off the monthly rent, in the amount of \$150.70, until the repairs are completed.

I also order the Tenants to comply and cooperate with any of the Landlord's reasonable requests for access to the rental unit to facilitate the repairs, including the temporary removal of any items/furniture so that the repairs can commence. Failure to cooperate in good faith would be grounds for the forfeiture of the Tenant's entitlement to reduced rent from July 31, 2024, and onwards.

Is the Tenant entitled to reduced rent for repairs, services or facilities agreed upon but not provided?

I have already determined that the reduction of rent for any potential delays in repairs as indicated in the section above is a fair and just outcome. I acknowledge that the Tenants requested repairs in the past, however, the Tenants did not seek an order for repairs related to the carpets or the cabinets until this hearing, and therefore, I decline to grant any retroactive reductions in rent.

Should an order be made to restrict or suspend the Landlord's right to entry?

This portion of the Tenants' claim is related to video taping by the agent DF in his office, as well as photographs taken by DF of the Tenants' balcony, as an invasion of privacy. These facts are not denied by the Landlord, but DF has asserted that the videotaping in the office was for DF's protection as he feels harassed by Tenant IC, and the photographs of the balcony were to collect evidence in relation to the allegedly unauthorized storage of items.

To resolve this aspect of the dispute, I order that each party must notify the other if they are recording any interactions. I also order the Landlord to cease taking pictures of the Tenant's balcony, and instead, exercise the Landlord's right to schedule rental unit inspections where photographs and videos can be taken when reasonably required for the purpose of collecting evidence.

Should an order be made for the Landlord to comply with the act, the residential tenancy regulation (the regulation) and/or tenancy agreement?

I find that all the Tenant's claims and issues presented at the hearing were addressed in the decisions I have made above.

Is the Tenant entitled to recover their filing fee from the Landlord?

As the Tenant was successful in their application, they are authorized to recover their filing fee from the Landlord by deducting \$100.00 from rent that is due on July 31, 2024.

Conclusion

The following repairs must be completed by July 31, 2024:

- Carpets replaced by new carpets or new flooring
- Cabinets re-painted and re-laminated
 - Alternatively, cabinets replaced

I order the Tenants to comply and cooperate with any of the Landlord's reasonable requests for access to the rental unit to facilitate the repairs, including the temporary removal of any items/furniture so that the repairs can commence.

The Tenants are authorized to make the following deductions from rent:

- \$502.33 from rent due on July 31, 2024, for nominal damages related to the vacuum billing
- \$100.00 from rent due on July 31, 2024, to recover the filing fee
- \$150.70 off monthly rent starting on July 31, 2024, if the carpet repairs are not completed

- \$150.70 off monthly rent starting on July 31, 2024, if the cabinet repairs are not completed

I order both parties to cease recording each other without notification. I order the Landlord to cease the collection of photographic evidence in relation to the rental unit outside of scheduled unit inspections.

Non-compliance by either party with the orders above can result in a referral to the Compliance and Enforcement Unit (CEU).

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: July 11, 2024

Residential Tenancy Branch