



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, RR

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for an order to have the landlord make emergency repairs for health or safety reasons, to have the landlord make repairs to the unit, site or property, to allow the tenant to reduce rent for repairs and a monetary order for money owed or compensation for damages or loss under the Act.

Both parties appeared, gave affirmed testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions to me.

Issue(s) to be Decided

Should an order be issued to the landlord to make emergency repairs?

Should an order be issued to the landlord to make repairs?

Should the tenant be allowed to reduce rent until the landlord makes those repairs?

Is the tenant entitled to a monetary order for money owed or compensation for damages under the Act?

Background and Evidence

The tenancy began on September 1, 2011. Rent in the amount of \$1,750.00 is payable on the first of each month. A security deposit of \$875.00 was paid by the tenant.

The tenant is seeking an order for emergency repairs for the following items:

1. Baseboard heater in master bedroom and the ensuite not working properly;
2. Sliding glass door in not completed with repairs; and
3. Garage fire door needs to be replaced.

The tenant testified that the baseboard heater in the master bedroom is not functioning properly and the heater is blackening and is also blackening the wall above it. The tenant further stated that the baseboard heater in the ensuite is not working at all and both heaters need to be replaced.

The tenant further testified that he had an electrician look at the heater and he was told by the electrician that he did not know if or when it could cause a fire. Filed in evidence are photographs of the baseboard heater and the wall above the heater.

The landlord testified the first time he heard from the tenant that there were any issues regarding the rental unit was by registered mail on November 14, 2011 and he became concerned.

The landlord further testified that he has purchased new thermostats for both heaters as that is the most common problem and has already made arrangements with an electrician to have them installed, if the electrician finds that the heaters need to be replaced that will be done as well. Arrangements still need to be made with the tenant to allow the electrician access to the rental unit to have the thermostats replaced.

The tenant testified the sliding glass door in the bedroom is not sealing properly at the center where the two doors join, and as a result, water is saturating the carpet. The gap in the door is also making the room cold.

The tenant further testified that he moved his children out of the room for health and safety reasons.

The tenant testified that the landlord sent a glass company over on November 20, 2011, to see if they could fix the problem and since they were not able to fix the seal the landlord sent another tradesperson over on November 22, 2011. A third tradesperson came over on November 24, 2011 and by December 16, 2011, most of the work had been completed, except for the trim board at the top of the door. Filed in evidence is a photograph that shows two nails protruding from the upper corner of the trim board on the exterior wall.

The tenant's written submission states, "the seals do not seal so it is allowing rain water and cold air into the room which is causing the carpet to get wet and maybe causing mould under the carpet. Also causing health issues with my daughters."

The tenant has also submitted into evidence an email dated November 23, 2011, which states that "We made a video of the attempted repair job" and a further email of November 24, 2011 states "my wife and I will be videotaping your tradesmen doing any work in the house".

The landlord testified on November 20, 2011, he sent a glazer over to look at the door. On November 22, 2011, he sent a tradesperson over to fix the door, however the tradesperson was frustrated as the tenant kept telling him how to do his job. On November 24, 2011, another tradesperson was sent over to the rental unit to see if the door could be repaired and as of December 16, 2011, all the work had been completed except for the trim board as described above. The landlord stated that he is concerned that the tenant is videotaping the workers when they are at the rental unit.

The tenant testified that he wants the landlord to replace the garage door that allows access into the house because of the cat door that was installed in the door. The tenant alleges this is a health and safety issue.

The landlord testified a cat door was installed into the garage door when he was living in the rental unit. The landlord further testified that it is not a health or safety issue as the garage is being used as a computer room and not a garage in any event.

The tenant confirmed that he does use the garage as a computer room and storage, but argues that once in a while he may need to do a repair to his vehicle.

Analysis

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

Section 33(1) of the Act “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.

The evidence of the tenant regarding the bedroom baseboard was an electrician looked at the heater and the tenant was told by the electrician that he did not know if or when it could cause a fire. There is no documentary evidence that would indicate there is a health or safety concern, such a letter from a qualified electrician, or from an electrical inspector.

The evidence of the tenant regarding the ensuite baseboard indicates the heater does not work. The landlord has purchased new thermostats for both baseboard heaters and is confident that will rectify the problem with the ensuite heater.

There is no evidence that would support the master bedroom heater being faulty. The pictures filed into evidence by the tenant do not show any blackening of the wall as suggested and the topside of the baseboard has no discoloration or blackening. The only discoloration is inside the heater and only on the portion that reflects the heat. However, the landlord has testified that he is having an electrician come and change the thermostats for both heaters and make repairs to the heaters if necessary.

The evidence of the tenant regarding the sliding glass door was that the seal was broken between the two doors allowing water to pass through the broken seal onto the carpet. There was no evidence to support the claim for emergency repairs, and there was no evidence that would support health or safety concerns, such a letter from Health Canada, or a medical practitioner.

The landlord took reasonable steps to have the door repaired. On November 20 2011, he had a glazer come in. On November 22, 2011 he had a trade's person look at the door and try to make a repair. The trade person told the landlord that he felt frustrated by the tenant as the tenant was telling him how to do his job. The evidence was that the only thing left to be completed was the trim board on the outside of the door.

The tenant has submitted two emails into evidence that would suggest he is or is planning to video tape the trade's people as they work. The tenants are cautioned that they are not the supervisor of the trade's people the landlord has hired and the tenants are not to interfere with the work that the landlord has requested to be done by the trade's people. Videotaping a tradesperson while they are working may be considered frustrating the landlord's ability to get the work done as many trade's people would likely refuse to work under such conditions.

The evidence of the tenant regarding the garage door is that it does not comply with fire regulation since the landlord had a cat door installed. There was no documentary evidence such as a letter from the building inspector or fire department indicating the door is a health or safety concern and needs to be replaced.

I find the tenant has not proven that emergency repairs are required as set out in section 33 of the Act, and I dismiss the tenant's application to issue an order to the landlord to make emergency repairs.

The landlord was first notified by registered mail on November 14, 2011, that the tenant had a few concerns that needed the landlord to address. The landlord has taken reasonable steps and in a timely manner to address those concerns.

Therefore, I dismiss the tenant's application to issue an order to make the landlord make those repairs. I grant the tenant leave to re-apply only if the landlord fails to have a qualified electrician inspect, and if necessary, make repairs to the electric baseboard heater in the master bedroom and ensuite.

I find the tenant has not given the landlord reasonable time to have normal repairs done to the rental unit and the tenant has not proven any loss. Therefore I dismiss the tenant's application to be allowed to reduce the rent until the repairs are made and for a monetary order for compensation.

Conclusion

The tenant's application is dismissed with leave to re-apply if the electric baseboard heaters in the master bedroom and ensuite are not inspected by a qualified electrician.

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: January 09, 2012.

Residential Tenancy Branch