



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes RP FFT

Introduction

This hearing dealt with the tenant's application pursuant to the *Residential Tenancy Act* (the "**Act**") for:

- an order that the landlords to make repairs to the rental unit pursuant to section 32; and
- authorization to recover the filing fee for this application from the landlords pursuant to section 72.

This hearing occurred in person at the Residential Tenancy Branch offices in Burnaby.

The landlords did not attend this hearing. The tenant attended the hearing and was given a full opportunity to be heard, to present affirmed testimony, to make submissions and to call witnesses.

The tenant testified that she served each landlord by registered mail with the following:

- 1) on September 17, 2019, the notice of dispute resolution proceeding package and supporting evidence; and
- 2) on October 8, 2019, the in-person notice of hearing.

She testified that these were sent to the landlords' residential address. She provided Canada Post tracking number for each mailing (reproduced on the cover of this decision). She provided copies of Canada Post tracking sheets which show that these packages were not picked up by the landlords.

I find that the landlords are deemed served with notice of dispute resolution package and supporting evidence on September 22, 2019, five days after the tenant mailed it, in accordance with sections 88, 89, and 90 of the Act.

I find that the landlords are deemed served with in person notice of hearing on October 13, 2019, five days after the tenant mailed it, in accordance with sections 88 and 90 of the Act.

Issue(s) to be Decided

Is the tenant entitled to:

- 1) an order requiring the landlords to make repairs in the rental unit; and
- 2) recover the filing fee from the landlord?

Background and Evidence

While I have considered the documentary evidence and the testimony of the tenant, not all details of her submissions and arguments are reproduced here. The relevant and important aspects of the tenant's claims and my findings are set out below.

The tenant did not enter a copy of the tenancy agreement into evidence. She testified that the parties entered into a tenancy agreement starting February 1, 2019 and that she moved into the rental unit February 4, 2019. Monthly rent is \$1,300 plus 1/3 of utilities. The tenant paid the landlords a security deposit of \$650. The landlords still retain this deposit.

The rental unit is a basement suite in a 27-year-old single-detached home. The landlords live in the upper levels of the single detached home.

The tenant has applied, pursuant to section 32 of the Act, for an order requiring the landlords:

1. to engage a plumber to repair or replace the garburator and to install a thermostatic mixing valve in the shower of the bathroom suite;
2. to engage a carpet installer to fix the carpet;
3. to repair and return the storage door;
4. to provide a fuse replacement for the cooking stove; and
5. to clean the weeds by the suite entrance door.

The tenant testified that since making the application the landlords have replaced the fuse in the stove and that she no longer requires this repair to be done.

The tenant testified that the garburator beneath the kitchen sink leaks water into the cabinets. She testified that the landlords placed a bucket under the leak to catch the water, and that she is required to empty this bucket on a regular basis.

In her written submissions, the tenant wrote that she experiences sudden changes in water temperature when having a shower. She wrote that she reported this to the landlords who, she says, replied, "if someone flushes the toilet while he is taking a shower, the water on his end will be burning hot and that he cannot control it."

The tenant wrote that the installation of a thermostatic mixing valve would eliminate this problem. She testified that she was advised that the installation of such devices is compulsory on all new buildings. She provided no documentary evidence corroborating this assertion.

The tenant testified that the carpet at the entrance to the bedroom is fraying because its edge has slipped up from under the transition strip between the two rooms. She testified that it has been this way since the start of the tenancy. She submitted a photograph of the frayed carpet into evidence. She testified that the frayed portion of the carpet could be cut off and a new transition strip could be installed to secure the carpet to the floor.

The tenant testified that the landlords removed the bifold door from the doorway to a storage closet located in the rental unit's living room. She submitted a photograph of the living room and storage closet into evidence which shows that the contents of the storage areas are visible from the living room. The tenant testified that in early November 2019, the landlords reinstalled the bifold closet door, but that it was not installed properly. She testified that the bifold doors do not close all the way (the middle joint juts out and the door face is not flush with the walls). She testified that she would like the landlords to install the bifold door properly.

The tenant testified that there is a weed patch next to the front door of the rental unit that the tenant wants removed. She testified that the landlords previously removed weeds from this area and would like him to continue to do so. She testified that the tenancy agreement does not set out who is responsible for yard work.

Analysis

I accept the tenant's uncontroverted testimony. I found the tenant to be credible and her evidence to be internally consistent.

Section 32 of the Act states:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

- (a) complies with the health, safety and housing standards required by law, and
- (b) having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

I will address each of the tenant's requests for repair in turn.

1. Garburator

I accept that the garburator leaks water into the kitchen cabinet beneath the sink. I find that the measures taken by the landlords (placing a bucket underneath to catch the water) is insufficient to constitute maintaining the rental unit a state of repair suitable for occupation. I find that the garburator requires repairs, and that the landlords have failed to make any. They have provided a temporary solution to leak, but this is not a viable long-term solution.

I order that the landlords repair the garburator so that it does not leak water.

2. Thermostatic Mixing Valve

With respect to the thermostatic mixing valve, the tenant has not applied that any repair be done. Rather, she seeks an order that the landlords upgrade the rental unit's water system. It is quite common for older houses to have the issue of a change in water temperature when a toilet is flushed. I do not find that this is an issue that warrants a repair under the Act. I find that, given the age of the rental unit, the presence of such a condition does not make the rental unit unsuitable for occupation.

I decline to order that the landlords install a thermostatic mixing valve.

3. Carpet

I find that the carpet is significantly frayed at the entrance to the bedroom. I find that this fray may constitute a tripping hazard if left unrepaired. As such, I find that such damage is not consistent with maintaining the rental unit in a state of repair suitable for occupation. As such, I order that the landlords repair this damage by removing the frayed portion of the carpet and installing a new transition strip in the bedroom entrance.

4. Storage Room Door

Based on the tenant's testimony, I find that the landlords reinstalled the bifold storage room door in early November 2019, but that it has not been done correctly. I find that it has been installed in a way that prevents the bifold door from closing properly. Accordingly, I order that the landlords repair the bifold storage room door such that the face of the door is flush with the wall of the living room when the door is shut.

5. Weeds

Policy Guideline 1 states:

4. Generally the tenant living in a townhouse or multi-family dwelling who has exclusive use of the yard is responsible for routine yard maintenance, which includes cutting grass, clearing snow.

Based on the tenant's testimony, I find that the area containing the weeds is located next to the front door of the rental unit. I have no evidence as to whether the tenant has exclusive use of the area around the front door. However, based on the proximity to the front door, I find that it is the tenant who predominantly uses this area. I find that this is sufficient to cause the removal of weeds from the area around the front door to be the responsibility of the tenant. As such, I decline to order that the landlord remove the weeds, as sought by the tenant.

In summary, I order that the landlords:

- 1) Repair the garburator so that it does not leak water.
- 2) Remove the frayed carpet at the entrance to the bedroom door and install a new transition strip.
- 3) Repair the bifold storage room door such that the face of the door is flush with the wall of the living when the door is shut.

(collectively, the "**Repairs**")

I am not authorized by the Act to order the landlord to use particular individuals or classes of individuals to complete the Repairs. Rather, I am authorized to order that the Repairs be done to a level that meets with the standard set out at section 32 of the Act. As such, I decline to grant the tenant's application that the repairs to the carpet be made by a carpet installer or that the repairs to the garburator be made by a plumber.

I further order that the landlords complete the Repairs by December 31, 2019. If the landlords fail to complete all the Repairs by this date, I order that the tenant may deduct \$130 (10%) from her rent payment for the month of January 2020. If the ordered repairs are not completed by January 31, 2020, the tenant may deduct \$195 (15%) from her rent payment for February 2020, and she may continue to deduct an additional 5% from her monthly rent for each subsequent month that the Repairs are not completed.

As the tenant was substantially successful in her application, pursuant to section 72(1), I order that the landlords reimburse the tenant her filing fee. Pursuant to section 72(2) of the Act, I order that she may deduct \$100 from her next month's rent payment in satisfaction of this monetary order.

I order that that tenant serve the landlords with a copy of this decision immediately upon receipt.

Conclusion

I order that the landlords:

- 1) Repair the garburator so that it does not leak water.
- 2) Remove the frayed carpet at the entrance to the bedroom door and install a new transition strip.
- 3) Repair the bifold storage room door such that the face of the door is flush with the wall of the living when the door is shut.

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: November 20, 2019

Residential Tenancy Branch