



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding Wall Financial Corp.
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes ERP, FFT

Introduction

In this dispute, the tenant sought an order for emergency repairs, pursuant to sections 33 and 62 of the *Residential Tenancy Act* (the “Act”). He also sought recovery of the filing fee under section 72 of the Act.

The tenant applied for dispute resolution on May 17, 2020 and a dispute resolution hearing was held, by way of telephone conference, at 9:30 AM on June 8, 2020. The tenant attended the hearing, was given an opportunity to be heard, to present testimony, to make submissions, and to call witnesses. Nine minutes into the hearing the landlord’s agent dialed in, and apologized for being late, but without explanation.

I have only considered evidence that was submitted in compliance with the *Rules of Procedure*, to which I was referred, and which was relevant to the issues of this application. Further, only relevant testimony has been included in this Decision.

Issues

1. Is the tenant entitled to an order for emergency repairs?
2. Is the tenant entitled to recovery of the filing fee?

Background and Evidence

At the outset of the hearing, the tenant explained at length the issues that he had been dealing with landlord, including having to go to various other empty rental units in order to do his laundry. (The laundry in his own rental unit was not functioning properly, and there were issues with dust.) Being a 75-year-old gentleman, with compromised health, he was rather concerned for his safety and well-being in having to leave his suite, given the risk of contracting COVID-19.

He further explained that the landlord had finally started addressing the issues, and that the landlord was going to have someone attend to his suite on June 9 to see about repairing the laundry and venting issues. The landlord's agent confirmed that this appointment was to proceed on that date.

Analysis

The standard of proof in a dispute resolution hearing is on a balance of probabilities, which means that it is more likely than not that the facts occurred as claimed. The onus to prove their case is on the person making the claim. In this application, the tenant seeks an order under section 62 for emergency repairs under section 33 of the Act.

Section 33(1) of the Act, which deals with emergency repairs, states as follows:

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.

In this dispute, there is unquestionably some urgency to the matter, and there is likely a health and safety issue with the tenant having to leave his rental unit. Any time he leaves his home the tenant is putting himself at risk. I do not disagree one iota with him on this point.

However, the issues he described concerning the dryer, the dust being blown into the bathroom, and his being forced to leave the rental unit in order to do laundry do not, as I explained during the hearing, fall into any of the categories under section 33(1)(c) of the Act. Unless a repair falls into one of those categories, then the repair is not an

“emergency repair” for the purposes of the Act. As such, the tenant has not met the onus of establishing that he is entitled to an order for an emergency repair. For this reason, the tenant’s application is dismissed. As the tenant’s application is dismissed, he is not entitled to recovery of the filing fee.

That having been said, I direct the tenant to section 32 of the Act, which states:

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.

Further—and the tenant explained that he understood this—the tenant may be entitled to compensation from the landlord for not providing laundry services as provided for in the written tenancy agreement.

Conclusion

The tenant’s application is dismissed without leave to reapply.

This decision is made on authority delegated to me under section 9.1(1) of the Act

Dated: June 8, 2020

Residential Tenancy Branch