



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes **ERP, FFT**

Introduction

This hearing dealt with an application by the tenant under the *Residential Tenancy Act* (the *Act*) for the following:

- An order requiring the landlord to carry out emergency repairs pursuant to section 33;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

The tenants attended with their two sons; the son AA primarily gave testimony on behalf of the tenants ("the tenant"). The landlord attended. The parties were given a full opportunity to be heard, to present affirmed testimony, make submissions, and call witnesses. I explained the hearing process and provided the parties with an opportunity to ask questions. The parties did not raise any issues regarding the service of evidence.

I have only considered and referenced in the Decision relevant evidence submitted in compliance with the Rules of Procedure to which I was referred.

Issue(s) to be Decided

Are the tenants entitled to the following:

- An order requiring the landlord to carry out emergency repairs pursuant to section 33;
- An order requiring the landlord to reimburse the tenant for the filing fee pursuant to section 72.

Background and Evidence

The tenants testified that the tenancy began on October 1, 2016 for monthly rent of \$2,046.87 payable on the first of the month. The tenant provided a security deposit of \$1,000.00 which the landlord holds. The tenant submitted a copy of the signed tenancy agreement.

The tenants testified that a water leak occurred in one of the two bathrooms in the unit on July 13, 2020. The occupants vacated the unit for 33 days. The tenants stated the leak has not been fixed and, accordingly, the bathroom is not used. The son AA testified he lived with his parents in the unit. He stated the lack of a second bathroom is of serious concern and inconvenience during the pandemic when hygiene is a paramount concern and the male tenant has health issues.

The landlord agreed the water leak occurred.

The landlord agreed he would instruct the plumber DT to attend at the unit to fix any non-functioning plumbing in the bathroom and to provide both parties with a report on the cause of any leak and the solution. The landlord agreed to pay the plumber DT.

The tenants' son AA agreed to coordinate the scheduled plumbing visit by the plumber DT.

The landlord proposed a settlement with respect to the tenants' claimed expenses. The tenants rejected the solution.

The tenants requested reimbursement of the filing fee. The landlord objected to the reimbursement of the filing fee.

Analysis

Each party submitted considerable testimony and evidence in a 1-hour hearing. I do not reference all the evidence and refer only to key facts.

Section 33(1) states as follows:

33 (1) 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.

I found that the tenants' son AA was a credible witness who provided a measured, calm account of what had taken place regarding the leak. I give substantial weight to his testimony. I believe his evidence that a concern for the family is ongoing hygiene, especially given the male tenant's compromised health. I accept his evidence that the family views the non-functioning bathroom to amount to an emergency which resulted in the family leaving the unit for 33 days.

Considering all the evidence submitted, I find on a balance of probabilities that the tenants have met the burden of proof that the requested emergency repair is necessary for the health or safety of the occupants of the unit.

I order that the landlord retain the services of a plumber to attend at the unit at a time by 5 PM on October 6, 2020, at a date/time to be agreed upon by the tenants' son AA and the plumber to repair the plumbing in the bathroom and return it to proper working order; I direct the landlord provide a report from the plumber by 5 PM on October 9, 2020 to the tenants confirming the repair has been completed and setting out the cause for the incident.

As the tenants have been successful in this matter, I award the tenants reimbursement of the filing fee of \$100.00 pursuant to section 72 which I direct they may deduct from future rent on a one-time basis only.

Conclusion

I order that the landlord retain the services of a plumber to attend at the unit at a time by 5 PM on October 6, 2020, at a date/time to be agreed upon by the tenants' son AA and the plumber to repair the plumbing in the bathroom and return it to proper working order; I direct the landlord provide a report from the plumber by 5 PM on October 9, 2020 to

the tenants confirming the repair has been completed and setting out the cause for the incident.

As the tenants have been successful in this matter, I award the tenants reimbursement of the filing fee of \$100.00 pursuant to section 72 which I direct they may deduct from future rent on a one-time basis only.

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: September 29, 2020

Residential Tenancy Branch