Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

File #310068661: OLC
File #310068647: MNRT, RP, RR

Introduction

The Tenants file two applications in which they seek the following relief under the *Residential Tenancy Act* (the "*Act*"):

- An order pursuant to s. 62 that the Landlord comply with the *Act*, Regulations, and/or the tenancy agreement;
- A monetary order pursuant to ss. 33 and 67 to be paid back for the cost of emergency repairs;
- An order pursuant to s. 32 for repairs to the residential property; and
- An order pursuant to s. 65 for a reduction of rent for repairs, services, or facilities agreed upon by not provided.

F.A. and F.K. appeared as the Tenants. L.U. appeared as the Landlord's agent. V.M. appeared as an assistant and V.M. appeared as caretaker for the building.

The parties affirmed to tell the truth during the hearing. I advised of Rule 6.11 of the Rules of Procedure, in which the participants are prohibited from recording the hearing. The parties confirmed that they were not recording the hearing. I further advised that the hearing was recorded automatically by the Residential Tenancy Branch.

The parties advise that they served their application materials on the other side. Both parties acknowledge receipt of the other's application materials without objection. Based on the mutual acknowledgments of the parties without objection, I find that pursuant to s. 71(2) of the *Act* that the parties were sufficiently served with the other's application materials.

Issues to be Decided

1) Should the Landlord be ordered to comply with the *Act*, Regulations, or the tenancy agreement?
2) Is the Tenant entitled to compensation for emergency repairs?
3) Should the Landlord be ordered to undertake repairs?
4) Is the Tenant entitled to a rent reduction for repairs, services, or facilities agreed upon but not provided?

Background and Evidence

The parties were given an opportunity to present evidence and make submissions. I have reviewed all written and oral evidence provided to me by the parties, however, only the evidence relevant to the issues in dispute will be referenced in this decision.

The parties confirmed the following details with respect to the tenancy:

- The Tenants took occupancy of the rental unit on May 1, 2016.
- Rent of $1,344.00 is currently payable on the first day of each month.
- The Landlord holds a security deposit of $600.00 in trust for the Tenants.

A copy of the tenancy agreement and addendum were put into evidence by the parties. I was advised by the Tenants that they are renting an apartment within a multi-unit residential property.

The Tenants testified to issues with locks into the residential property and that the issue has been ongoing for the past 2 years. The Tenants advise there is one door entering from the front and another entering from a parkade. The Tenants' evidence includes video of the entrance into the parkade in which the doors into the building do not appear to be a lock.

The Tenants further testified to entering the building and finding that the mailboxes in the lobby were opened. The Tenants' evidence includes a picture of the open mailboxes. The Tenant further testified to an instance in which she went to do laundry and found an individual sleeping in the common area of the building.

The Landlord's agent says that the doors entering the building have locks. However, the Landlord's agent also acknowledges that the there have been instances in which the doors do not latch and other instances in which individuals have forced entry into the

building. The caretaker testified to inspecting the locks for the building every morning and repairing damage as required.

The Tenant seeks an order that the Landlord secure the building with locks. The Landlord's agent emphasized that the Landlord has an online system in which tenants are to request repairs and provide a screen shot of the online portal. I am advised by the agent that no repair requests for the locks have been given by any tenant.

The Tenant indicates that she has raised the issue of the locks with the Landlord. In the Tenants' evidence there is an email dated February 4, 2022 sent by the Tenant to the Landlord stating "I think this is 1000 times I am asking you guest to fix the entrance locks since anyone can come into the building".

The Tenants confirmed that one of the doors entering the building was repaired four days prior to the hearing but that one of the doors is still unsecured. Again, the Landlord emphasized that the locks are functioning. No receipts or maintenance records for the locks were put into evidence by the Landlord.

The Tenants say that they have obtained a security system as a result of the security issues at the building, which is a monthly subscription that costs $53.41. The Tenants say that they had to sign a 5-year subscription contract and seek the total cost of the monthly subscription over the course of the contract, which is listed as $3,845.52 in the Notice of Dispute Resolution. The Tenants further advised that the security system was installed approximately 1-year ago and that there was no security system before that point. The Tenants claim this amount as an emergency repair.

The Landlord's agent argues that the camera cost is voluntarily self-imposed by the Tenants and that the camera is a breach of clause 16 of the tenancy agreement, which prohibits the installation of security devices without the Landlord's consent. The Landlord's agent says no consent was given for the camera.

The Tenants also seek a rent reduction claim due to the locks into the building. The Notice of Dispute Resolution lists the past rent reduction claim as $7,200.00 based on a reduction of $400.00 for 18 months. However, at the hearing the Tenants advanced a claim in which they sought compensation equivalent to total rent paid over 12 months. The Tenant speculated that she could have had a package stolen from the mailbox, though confirmed that she has not suffered any theft because of locks. The Tenant F.K.

says he was punched while in the building, though did not provide specifics on the incident.

Finally, the Tenants seek an order under s. 62 on the basis that the Landlord failed to give 24-hours notice to enter the rental unit as required under s. 29 of the *Act*. They indicate that the Landlord gave notice to enter to replace locks for their rental unit at approximately 2:41 pm on March 21, 2022 and entered the rental unit at approximately 9:00 am on March 22, 2022. The Tenants provide time stamped video evidence respecting the entry. The Tenant testified that he was sleeping in the rental unit and was unaware of the entry when the Landlord entered on March 22, 2022.

The Landlord's agent says that the building's residents were given notice of the lock changes on March 18, 2022 and again on March 21, 2022. The Tenant denies receiving notice on March 18, 2022. The Landlord's evidence does not include a copy of a notice given to the residents on March 18, 2022. The Tenants evidence includes a copy of the March 21, 2022 entry notice.

Analysis

The Tenants seek orders under s. 32, 62, 65, and 67 of the *Act*.

Dealing first with the issue of the repairs, s. 32 of the *Act* imposes an obligation on a landlord to maintain a residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and, having regard to the age, character, and location of the rental unit, make it suitable for occupation for a tenant.

Presently, the Tenants argue doors entering the residential property are not secured properly or at all. Policy Guideline #1 states the following with respect to the responsibilities of a landlord with locks for exterior doors:

> 6. The landlord is responsible for providing and maintaining adequate locks or locking devices on all exterior doors and windows of a residential premises provided however that where such locks or locking devices are damaged by the actions of the tenant or a person permitted on the premises by the tenant, then the tenant shall be responsible for the cost of repairs.

7. In a multi-unit residential premises, in addition to providing and maintaining adequate locks or locking devices on all doors and windows of each individual unit within the premises, the landlord is responsible for providing adequate locks or locking devices on all entrances to common areas in the premises and on all storage areas.

Upon review of the video evidence provided by the Tenant, there does not appear to be any lock on the door entering the building from the parkade. This directly contradicts the evidence put forward by the Landlord's agent that there are locks but that the door either does not latch or someone forces entry. Further, the Landlord provides no evidence in the form of locksmith receipts or maintenance records showing when the exterior locks were last repaired (if they are present at all).

I find that the Landlord has breached its obligation under s. 32 of the *Act* to ensure there are adequate locks into the residential property, which is a basic safety standard made clear by Policy Guideline #1. The Tenant says that one of the doors was secured four days prior to the hearing but that the other has not been secured. Pursuant to s. 32, I order that the Landlord retain a qualified professional and provide adequate locks for <u>all</u> the exterior doors entering the residential property.

Dealing next with the Tenants' claim for compensation for emergency repairs, a tenant may have emergency repairs made only when all the conditions set out in s. 33(3) of the *Act* are met, which are:

1. "Emergency Repairs", as defined by s. 33(1), are needed.
2. The tenant has made at least 2 attempts to telephone, at the number provided by the landlord for emergency repairs.
3. Following those attempts, the tenant has given the landlord reasonable time to make the repairs.

If a tenant has paid for emergency repairs, a landlord must reimburse the tenant as per s. 33(5) of the *Act*.

The Tenants claim the cost of a monthly subscription for a security system as an emergency repair. The Tenants confirmed there was no security system in the rental unit prior to moving in and that they installed it themselves approximately 1 year ago in response to the security issues at the building. The installation of a security system done voluntarily by the Tenants is not an emergency repair as per s. 33(1) of the *Act*. I

find that the Tenants are not entitled to claim the cost of the security system as an emergency repair.

The Tenants also seek a rent reduction. Pursuant to s. 65 of the *Act*, where a landlord is found to have not complied with the *Act*, Regulations, or the tenancy agreement, the director may grant an order that past or future rent be reduced by an amount equivalent to the reduction in the value of the tenancy agreement. Generally, rent reduction claims are advanced when services have been terminated or suspended for repairs.

I have found that the Landlord has breached its obligation under s. 32 of the *Act*. I would add that the inadequate locks for the exterior door constitutes a breach of the Tenants' right to quiet enjoyment under s. 28 of the *Act*. The Tenants state that there have been break-ins to the mailboxes for the residential property and that they have found an individual sleeping in the common areas of the property. The Landlord's agent acknowledges there have been break-ins at the property. The lack of adequate locks appears to be directly related to these disturbances.

The Tenant F.K. says he was punched at the property. I make no findings on this point as the Tenants failed to provide specifics on the circumstances of the incident or whether the culprit broke into the property or was a resident.

The Tenant seeks past rent reduction equivalent to 12 months rent. I would not accede to this request as that greatly exceeds the loss of value from not having adequate locks into the building. Further, this amount exceeds that claimed in the Notice of Dispute Resolution, which is contrary to Rule 2.2 of the Rules of Procedure that provides that claims are limited to what is stated in the application. The Tenant's claim for past rent reduction in the Notice of Dispute Resolution is for $400.00 for each month over an 18-month period, totalling $7,200.00.

I accept there are concerns from Tenants respecting their security and some breaches to the Tenants' right to quiet enjoyment of the common areas of the property. However, the Tenants have not had property stolen and there was no complaint that the rental unit locks were somehow deficient. As mentioned above, the assault allegation lacked specifics sufficient to justify taking that into account.

I accept that the issue with the locks have been present for some time, though the Tenants submissions alternate between 2 years and 1 year. Given the conflicting submissions by the Tenants on how long the locks were in issue, I rely upon their

submissions that they sought rent be eliminated for 1 year as the guide for the term in which the locks were in issue. I find that the past rent reduction claim is limited to 12 months. I further find that the lock issue was equivalent to a loss of value in the amount of $100.00 for each month. Accordingly, I find that the Tenants are entitled to past rent reduction in the amount of $1,200.00 (12 x $100.00).

The Tenants do not claim future rent reduction in their application. Accordingly, I make no orders for future rent reduction.

The Tenants also seek an order that the Landlord comply with the *Act*. Pursuant to a s. 62(3) of the *Act*, the director may make any order necessary to give effect to the rights, obligations, and prohibitions under the *Act*, the Regulations, and the tenancy agreement. This includes making an order that the Landlord comply with the *Act*, Regulation, and the tenancy agreement.

The Tenants say they were not given 24 hours notice by the Landlord to enter the rental unit in contravention of s. 29(1) of the *Act*. I have reviewed the Tenants' video evidence, which shows the entry notice being delivered on March 21, 2022 at 2:40 PM and the locksmith entering at 8:59 AM. The Landlord says they gave notice on March 18, 2022, which is denied by the Tenants. The Landlord provides no copy of a March 18, 2022 notice to verify this point.

On balance, I find that the Landlord failed to give 24 hours notice before entering the rental unit as required under s. 29(1) of the *Act*. The breach by the Landlord was largely technical as it was a deficiency of approximately 5 hours. However, it is clearly a breach of s. 29. Accordingly, I order that the Landlord comply with s. 29 of the *Act* when entering the Tenants rental unit.

Conclusion

I find that the Landlord breached s. 32 of the *Act* by failing to provide and maintain adequate locks for the exterior doors of the building. Accordingly, I order that the Landlord retain a qualified professional and provide and maintain adequate locks for all the exterior doors entering the residential property.

The Tenants' claim for compensation related to emergency repairs is dismissed without leave to reapply as the security system does not qualify as emergency repairs under s. 33 of the *Act*.

I grant the Tenants an order under s. 65 of the *Act* for past rent reduction in the amount of $1,200.00, which is equivalent to the loss of value of the exterior locks being set at $100.00 over a period of 12 months. Pursuant to s. 72(2) of the *Act*, I direct that the Tenants withhold $1,200.00 from rent on **one occasion** in full satisfaction of their past rent reduction claim.

Pursuant to s. 62 of the *Act*, I order that the Landlord comply with s. 29 of the *Act* when entering the Tenants rental unit.

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: August 05, 2022

Residential Tenancy Branch