

Residential Tenancies Tribunal

Application 2022-1033-NL

Decision 22-1033-00

Jacqueline Williams
Adjudicator

Introduction

1. Hearing was called at 9:09 a.m. on 29-March-2023.
2. The applicant, [REDACTED], hereinafter referred to as “the tenant” attended by teleconference.
3. The respondent, [REDACTED], represented by [REDACTED], hereinafter referred to as “the landlord” attended by teleconference.

Preliminary Matters

4. The tenant submitted an affidavit stating that he had served the landlord notification electronically, on 04-January-2023 for a previous hearing date. Both parties were then given a notice of rescheduled hearing by this department for today’s hearing date. Both parties confirm notification and are present today.

Issues before the Tribunal

5. The tenant is seeking
 - Repairs made
 - Rent paid in trust until repairs made

Legislation and Policy

6. The jurisdiction of the Director of Residential Tenancies is outlined in sections 46 and 47 of the *Residential Tenancies Act, 2018*.
7. Also relevant and considered in this decision are the following sections of the *Residential Tenancies Act, 2018*: Section 10: Statutory conditions, Section 18: Notice of termination of rental agreement and Section 47: Order of director, as well as Policy 04-002: Tenant’s request for repairs and Policy 12-001: Fees, costs and interest.

Issue 1: Repairs made

Tenant's Position

8. The tenant stated that he has a written rental agreement with the landlord for the rental of a bedroom in a house, with shared access to the kitchen and washroom. The tenant began renting on 01-September-2020 paying \$550.00 for rent including utilities. His rental period is from the 1st day of each month to the last with rent due on the 1st day of the month. The tenant's rent has increased and is currently \$695.00. The tenant is supported by income support and his security deposit of \$372.00 was paid on his behalf, at the start of his tenancy. The tenant believes that the landlord would still be in possession of the deposit. The tenant clarified that his written agreement is not a formal agreement, but instead an information sheet provided to income support for approval of his payment.
9. The tenant submitted a request for repairs (TT#02) that he served electronically to the landlord on 26-October-2022. The request is that the following repairs be completed on or before 16-November-2022:
 - Washer fixed or replaced
 - Bathtub pipes and taps leak
 - Backdoor has a draft
 - Key for the front door
10. In addition to this list they have had ongoing discussions about the kitchen sink which has a pinhole leak in the shaft.
11. The tenant explains that when he first moved into the unit, he had access to the front porch and front exit. On 26-January-2022 the front door lock was changed, as well a dead bolt that unlocks from outside his living area, in the front porch. The dead bolt was installed on the French door that leads into the common area. Picture of door provided (TT#03). The tenant rents a room downstairs and now only has access to the common area and exits through the back door. The upstairs tenant has access to the common area, and front and back door. The tenant states that this is an inconvenience, he has to walk around the property to access his apartment, he is unable to easily access deliveries, as the drivers will only deliver to the front door, and he is also concerned that it is a fire hazard. The tenant is requesting access to this area and the key.

Landlord's Position

12. The landlord agrees with the details of the rental agreement, he points out that the tenant does not have a formal written rental agreement, they have a verbal agreement and that an information sheet was provided for the purpose of funding.
13. The landlord explained that with the exception of the key, the requests for repairs have been worked on. He explained that he doesn't want his properties to fall into disrepair. He said that he will attend the residence after the hearing and do his best to have all those issues resolved.
14. The landlord explained that the tenant had access to the entire house in January 2022, there was an issue with the heat in the tenant's room and that the tenant had turned up the heat throughout the house and the landlord then had an expensive heat bill. The

landlord stated that the tenant has access to the common area and his room, this is what he pays rent for and that the tenant doesn't require access to the front porch or upstairs. Further, he disputes that this is a fire hazard, because most apartments only have one access. He is not willing to provide the tenant a key.

Analysis

15. Section 10 of the *Residential Tenancies Act, 2018*, states:

Statutory conditions

10. (1) *Notwithstanding an agreement, declaration, waiver or statement to the contrary, where the relationship of landlord and tenant exists, there shall be considered to be an agreement between the landlord and tenant that the following statutory conditions governing the residential premises apply:*

1. Obligation of the Landlord -

- (a) *The Landlord **shall maintain the residential premises in a good state of repair** and fit for habitation during the tenancy and shall comply with a law respecting health, safety or housing.*

16. There is no dispute concerning the repairs, the landlord has declared that he will address these issues and have them resolved to the best of his abilities.
17. Both parties have made valid points about the issue of access to the front porch and key. In accordance with the *Residential Tenancies Act, 2018*, Section 10.6: the landlord may not change the lock without mutual consent, as it is clear that the tenant does not give consent, the landlord will provide the tenant a key to the front door and he will remove the dead bolt from the interior door giving the tenant access to the entryway.

Statutory conditions

10. 6. Entry Doors - Except by mutual consent, neither the landlord nor the tenant shall, during the use or occupancy of the residential premises by the tenant, alter a lock or locking system on a door that gives entry to the residential premises.

Decision

18. The landlord shall:
- complete repairs to the plumbing in the kitchen and bathroom,
 - fix the draft in the back door,
 - repair or replace the washer
 - and he will provide a key to the front door and remove the dead bolt from the interior French door.

Issue 4: Rent paid in trust until repairs completed

Tenant's Position

19. The tenant has been dealing with these ongoing issues for a very long time. He is asking that rent be paid in trust to the Director until the repairs are completed and he has a key and access to the front door.

Analysis

20. In accordance with Section 47 of the *Residential Tenancies Act, 2018*:

Order of director

47. (1) *After hearing an application the director may make an order*

(a) determining the rights and obligations of a landlord and tenant;

....

(k) directing a tenant to pay rent or a specified amount of rent to the director;

21. It has been determined in paragraph 18 that the landlord is to complete the repairs and provide a key and access to the front door to the tenant. Until these obligations are fulfilled the tenant shall make arrangements with his funding agency to pay his rent of \$695.00 to this Board commencing 01-May-2023.
22. The landlord shall upon completion of the repairs and access to the front door has been given, provide proof of this work to this Board and complete an affidavit stating same. Once he has complied with the Order, the monies paid in trust will be reimbursed to the landlord and the tenant will be ordered to reinstate rent payments to the landlord.
23. Of note: Residential Tenancies Policy 04-002 states that *"If an order for repairs is issued and the tenant moves out before repairs are completed the landlord is required to complete the repairs prior to re-renting the unit."*

Decision

24. The tenant's claim to have rent paid in trust until repairs are completed succeeds. The tenant shall direct his funding agency to pay his rent to this Board until the repairs are made commencing 01-May-2023. Rental payments of \$695.00 should come to the Residential Tenancies Section in the form of a Canadian Postal Money Order made payable to the **Residential Tenancies Trust Account**. That rent will be held in trust until it is determined that the landlord has complied with the above order. The tenant shall continue to forward rent to this Section, as it comes due, until such time as he is ordered by this Section to reinstate payments to the landlord or until he vacates the rental unit.

Issue 4: Hearing expenses reimbursed \$20.00

25. The tenant submitted the receipt for \$20.00 for the cost of the hearing (TT#09) and pursuant to policy 12.01, is entitled to reimbursement of that cost from the landlord.

Summary of Decision


26. The landlord shall:
 - complete repairs to the plumbing in the kitchen and bathroom,
 - fix the draft in the back door,
 - repair or replace the washer
 - provide a key to the front door and remove the dead bolt from the interior French door.

- Reimburse the tenant's \$20.00 hearing expense for the cost of filing the application.

The tenant shall direct his funding agency, to pay his rent to this Board, until the repairs are made commencing 01-May-2023. Rental payments should come to the Residential Tenancies Section in the form of a Canadian Postal Money Order made payable to the Residential Tenancies Trust Account.

April 3, 2023

Date



Jacqueline Williams, Adjudicator
Residential Tenancies Office