File #18455

IN THE MATTER between **MA and JC**, Applicants, and **CP and MP**, Respondents;

AND IN THE MATTER of the **Residential Tenancies Act** R.S.N.W.T. 1988, Chapter R-5 (the "Act");

AND IN THE MATTER of a hearing before **Janice Laycock**, Rental Officer, regarding a rental premises located within the **city of Yellowknife in the Northwest Territories.**

BETWEEN:

MA and JC

Applicants/Tenants

-and-

CP and MP

Respondents/Landlords

REASONS FOR DECISION

Date of the Hearing: **December 11, 2024**

Place of the Hearing: **Yellowknife, NorthwestTerritories**

Appearances at Hearing: **MA and JC, the Applicants**

Date of Decision: **December 19, 2024**

REASONS FOR DECISION

An application to a rental officer made by MA and JC as the Applicant/Tenants against CP and MP as the Respondents/Landlord was filed by the Rental Office November 7, 2024. The application was made regarding a residential tenancy agreement for a rental premises located in Yellowknife, Northwest Territories. The filed application was deemed served on the Respondents by email on November 24, 2024.

The Applicants claimed the Respondents had failed to comply with their obligation to maintain the rental premises in a good state of repair citing issues with an exterior door, washing machine, and leaking faucet. They sought an order for the landlord to comply with their obligations and compensation.

A hearing was held on December 15, 2024, by teleconference. The Applicants, MA and JC, appeared at the hearing, the Respondents did not appear, nor did anyone appear on their behalf. As the Respondents had been provided notice of the hearing by email deemed served on November 24, 2024, the hearing proceeded in their absence as provided under subsection 80(2) of the *Residential Tenancies Act* (the Act).

I reserved my decision at the hearing pending receipt of a copy of the written tenancy agreement and further information to support the Applicants' claim. This information was provided to the Rental Office on December 15, 2024. As proof of service on the Respondents was not provided at that time, the additional information was provided to the Respondents by the Rental Office on December 18, 2024.

Tenancy agreement

The Applicants did not provide a copy of the written tenancy agreement prior to the hearing. They testified that they had a joint tenancy agreement with the previous owners beginning in February 2021, but the current owners had not provided them with an updated agreement. Their rent was currently $2,000 per month. They committed to provided a copy of their tenancy agreement.

Copies of previous tenancy agreements were provided, the most recent being the joint tenancy agreement with the previous owners. This tenancy was for a fixed-term from February 1, 2021 to January 31, 2022 and then continued month to month. As the tenancy was not terminated, nor was the tenancy agreement replaced by a new agreement this tenancy agreement continued when the ownership of the building changed.

I am satisfied a valid tenancy agreement is in place in accordance with the Act.

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Obligation of landlord - maintenance

Under paragraph 30(1)(a) of the Act, a landlord shall "provide and maintain the rental premises, the residential complex and all services and facilities provided by the landlord, whether or not included in a written tenancy agreement, in a good state of repair and fit for habitation during the tenancy". Under subsection 30(5), a tenant is required to give reasonable notice to the landlord of any breach of the obligation that comes to their attention, and under subsection 30(6) the landlord is required to remedy the breach within 10 days.

The Applicants claimed that the Respondents had not address repairs in a timely manner, including replacement of their exterior door, repair of a washing machine that wasn't operating, and repairing the bathtub faucet that was leaking.

Exterior Door

They testified, and provided evidence, including emails and photos, that they notified the Respondents on April 3, 2024, that their exterior door was coming off the hinges and the wood in the door was rotten. The landlord performed some repairs on the door and promised to change out the door "when it's warmer".

On June 4th, 2024, the door had not been replaced, was still in poor condition resulting in the Applicants having to force the door open. They testified that they had gone out to the garbage leaving their young child in the unit, when they returned, they couldn't get the door open and had to force the door. They felt they didn't have any other option as their child was alone in the unit and they didn't have their phone with them.

The door was replaced in July and the Applicants received an invoice for the replacement totalling $2,713.13. The Applicant has paid $913.13 towards the replacement of the door. In their application, and at the hearing, they offered to pay half of the full costs, a remaining $443.43, with the Landlord responsible for the other half of the costs, equally $1,356.57.

I note that in a copy of an email dated December 4, 2024, provided to the Rental Office after the hearing, the Respondent reports that the original bill for the door was $5,955, "we only charged you for the amounts to replace the door, not the extra work that had to be done". However, the invoice provided along with a copy of the contractor's invoice is for $2,713.13, so it is not clear, what work the Respondent is referencing.

Under subsection 42(1) of the Act, a tenant shall repair damage to the rental premises caused by their wilful or negligent conduct, and under subsection 42(2) ordinary wear and tear of the rental premises does not constitute damage to the premises.

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Based on the Applicant ' evidence and testimony, it is my opinion that the Respondents were in breach of their obligations under section 30 of the Act by not replacing the door earlier, and further damages to the door were at least partially as a result of the delay. I would argue that if the Respondents had replaced the door earlier, the Tenants would not have had to force the door.

Also, the useful life of this building element should also be considered. The Applicants testified the door had been in place when they initially moved into the rental unit in 2017. Useful life of exterior doors is typically 20 years, but if there were other factors beyond the control of the Applicants or Respondents, such as moisture getting into the door, leading to the rotting reported by the Applicants earlier, this may explain the need for an earlier replacement.

Considering all of this, I believe the door replacement could be attributed to wear and tear alone and the Respondents offer to pay half the costs of the exterior door replacement as a gesture of good faith is generous.

<u>Leaking faucet and washing machine</u>

The Applicants provided an email sent September 30, 2024, notifying their Landlord that the washing machine is no longer operating properly and that the bathtub faucet does not turn off and water is flowing out of it.

The Respondents replied to the email but did not send anyone to resolve the issues until just more than two months later, on December 5, 2024, when a plumber came and fixed the leaking faucet. According to the Applicants, and supported by emails between the parties provided to the Rental Office after the hearing, the washing machine was not fixed as of December 15, 2024.

Again, I am satisfied the Respondents have breached their obligations under the Act to maintain the rental premises and to respond to a breach of this obligation reported by the Applicants within 10 days.

Under subsection 30(4) of the Act, on the application of a tenant, where a rental officer determines a landlord has breached an obligation to maintain the rental premises, the rental officer may make an order:

(a) requiring the landlord to comply with the landlord's obligation;
(b) requiring the landlord to not breach the landlord's obligation again;
(c) authorizing repairs and requiring the landlord to pay any costs;
(d) requiring the landlord to compensate the tenant for loss that has been suffered as a result of the breach.

At the hearing, the Applicants testified that they have had to do their laundry at the Laundromat since the end of September, which involves three trips a week. I asked them to provide an estimate of their costs to the Rental Office and I would consider compensation as provided for under paragraph 30(4)(d) of the Act. The Applicants provided an estimate of their costs as $3.50 per load x 3 times per week x 11 weeks = $115 claimed + gas to drive back and forth estimated at $225 = $340 ($30.90 per week).

I believe that these costs are reasonable, but do not take into consideration the lack of use of this service in the rental premises. I will order the Respondents to comply with their obligations and to repair the washing machine on or before January 6, 2025, to not breach their obligations again, to compensate the tenant for loss that has been suffered totalling $340, and from today December 19, 2024, until such time as the washing machine is repaired, apply a credit on their rent of $30.90 per week as compensation for any further losses, and in recognition of the fact that they do not have this service available to them, I will also apply an abatement of 2.5% of the monthly rent, calculated on a daily basis.

Orders

An order will issue:

- requiring the Respondents to repair or replace the washing machine, on or before January 6, 2025, and to comply with their obligations to maintain the rental premises in a good state of repair (p. 30(4)(a), (ss. 83(2));
- requiring the Respondents to not breach their obligation again (p. 30(4)(b)); and
- requiring the Respondents to compensate the Applicants for their loss in the amount of $340.00, and from December 19, 2024, until the washing machine is repaired or replaced, the Respondents shall credit the Applicants' rental account in the amount of $30.90 per week, as well as abate their rent by 2.5%, calculated daily (p.30(4)(d), ss. 83(2)).

Janice Laycock
Rental Officer