Order under Subsection 30 and 31
Residential Tenancies Act, 2006

Citation: Corriveau v KW Property Management Corp, 2023 ONLTB 56391
Date: 2023-08-23
File Numbers: LTB-T-023805-22
LTB-T-064188-22

In the matter of: A, Upper, 135 RUSKVIEW ROAD KITCHENER ON N2M4S1

Between: Jerry Harris Corriveau — Tenant

And

KW Property Management Corp — Landlord
Jacey Estelle Corriveau

LTB-T-023805-22

Jerry Harris Corriveau and Jacey Estelle Corriveau (the 'Tenant') applied for an order determining that KW Property Management Corp (the 'Landlord') failed to meet the Landlord maintenance obligations under the *Residential Tenancies Act, 2006* (the 'Act') or failed to comply with health, safety, housing or maintenance standards.

LTB-T-064188-22

Jerry Corriveau and Jacey Corriveau (the 'Tenant') applied for an order determining that KW Property Management Corp. (the 'Landlord'):

- substantially interfered with the reasonable enjoyment of the rental unit or residential complex by the Tenant or by a member of their household.
- harassed, obstructed, coerced, threatened or interfered with the Tenant.

These applications were heard by videoconference on February 7, 2022, May 9, 2023, June 7, 2023, and August 4, 2023.

The Landlord’s Legal Representative Howard Tovarges, the property owner Mike Paquette and the Tenants attended the hearing.

Preliminary Issues:

1. The February 7, 2022 hearing was adjourned, in part, due to insufficient time to commence the hearing. The parties were directed to confer and see if they could reach an agreed statement of facts.

2. There was no agreed statement of facts submitted.

3. The May 9, 2023, hearing was adjourned on consent so that both applications could be heard at the same time.

4. The applications were heard on June 7, 2023 and August 4, 2023.

Determinations:

1. The Rental unit is part of a dwelling that was converted to a duplex. The Tenants were the first occupants of the upper unit after the conversion. There was ongoing work at the residential complex after the Tenants occupied the rental unit. Each unit has their own hydro meter.

2. The Tenant Jerry Corriveau is not a Tenant, notwithstanding that the Landlord had Jerry Corriveau listed as a co-tenant on the lease. Jerry Corriveau is the father of Jacey Corriveau and her financial trustee and acted as an Agent on her behalf throughout these proceedings. He testified that he was “OK” being added because it had to do with finances, to help take care of rent, due diligence and to look into his credit rating. At no time was “guarantor” used in the discussions in relation to his undertakintgs.

3. I would note that the Act does not contemplate jurisdiction over a “guarantor” and while not argued in these proceedings, it may be that it is improper to list a “guarantor” as a tenant if they are in fact not tenants.

4. The Tenants occupied the rental unit as of March 31, 2020. At that time there was not a tenant in the lower unit.

5. Jerry Corriveau confirmed that they were not seeking a confidentiality order

6. As explained below, the Tenant proved on a balance of probabilities the allegations contained in the application. Therefore, the Landlord must compensate the Tenants.

7. Although some issues ought to have been raised on the T6 application under paragraph 29(1)1 of the Act, my view is that the Tenant’s choice of forms is not determinative. On this

issue, I agree with the Board's decision in *TST-69731-16 (Re)*, 2018 CanLII 140410 (ON LTB), which was upheld by the Divisional Court in *Zhou v. Cherishome Living*, 2020 ONSC 500 (CanLII). In *TST-69731-16*, the hearing Member held that an application brought on a T6 form could be heard under section 22 and that an application brought on a T2 form could be heard under section 20 in appropriate cases. This is an appropriate case to consider the real substance of all of the Tenant's claims due to their lack of legal sophistication.

T6 Application

8. I find that the Landlord failed to meet the Landlord obligations under subsection 20(1) of the Act to repair or maintain the rental unit or residential complex and failed to comply with maintenance standards.

9. In *Onyskiw v. CJM Property Management Ltd*., 2016 ONCA 477, the Court of Appeal held that the LTB should take a contextual approach and consider the entirety of the factual situation in determining whether there was a breach of the landlord's maintenance obligations, including whether the landlord responded to the maintenance issue reasonably in the circumstances. The court rejected the submission that a landlord is automatically in breach of its maintenance obligation as soon as an interruption in service occurs.

10. In this case, the Tenants raised the following maintenance issues:

    a. The Landlord did not repair the thermostat in the rental unit in a timely manner, to ensure the Tenants retained full control over the temperature settings in the rental unit.

11. The Tenant Jerry Corriveau testified that:

    a. when they rented the unit, that they had expressed a requirement that they have control over the heat and air conditioning (AC) in the rental unit, and were paying a premium rental rate for that control.

    b. the thermostat broke down January 23, 2022 and that a temporary thermostat had been installed in the lower unit, and that the thermostat was finally relocated to the upper unit September 2022.

    c. January 26, 2020 that a temporary fix to the thermostat was completed when the furnace technician hard-wired the thermostat in the lower unit.

    d. January 28, 2022 someone would visit to quote on the thermostat repair.

e. February 7, 2022 someone would come to repair the thermostat.

f. April 12, 2022, advised that it is still being worked on.

g. April 25, had requested that the tenant in the lower unit turn on the AC.

h. April 25, 2022 emailed the Landlord about the thermostat control issues.

i. May 11, 2022 emailed the Landlord that the temperature in unit was 27degrees and to request that the tenant in lower unit turn on the ac. Landlord replied May 12, 2022 that they would ask the tenant to turn on AC.

j. May 20, 2022 Landlord advised that they had “reached out” to tenant in lower unit to turn on the AC.

k. May 31, 2022 Landlord advised that the AC needs to be repaired and they will look into it.

l. June 15, 2022, Tenants complained about the “sweltering” temperature in their rental unit. Again, reminds Landlord that the tenant in lower unit has control over temperature and does not turn on furnace or AC when not at home.

m. June 21, 2022, Tenants complain to Landlords about temperature in rental unit.

n. July 24, 2022 Tenants complain to Landlords that lower unit Tenant has departed and turned off the Ac.

o. August 18, 2022 Tenants complain to Landlords about temperatures in rental unit. Landlord responds that a contractor will be onsite to “lock” the thermostat and “set it at a reasonable temperature so it cannot be changed”.

p. August 20, 2022 Tenants complain to Landlord about temperature settings, alleging that if set for 22 degrees in basement in the upper unit temperatures reach 28 degrees or higher. Requests an update on when thermostat issues will be resolved.

q. August 23, 2022, Landlord advises that “the lower tenant does not have access to the thermostat. There is a lock placed over it, we (the Landlord) are the only ones with access to the thermostat.”

r. August 24, 2022 Tenants complain to Landlord that temperature in unit is 30 degrees.

s. August 25, 2022 Landlord advises will sent an agent to reset the temperature.

t. September 9, 2022, Landlord advises that thermostat will be returned upstairs and that it “will have a lock over it and an agent will be adjusting the temperature and it will be monitored”.

u. On September 16, 2022, technicians install the thermostat in the upper unit. There is no lock over it and the Tenants have control over the temperature settings.

v. because they wanted control over the heat and AC, that they paid a premium rent rate for this. He stated that this was approximately $150.00 higher than rent charged to lower tenant.

12. The property owner Mike Paquette testified. He is one of the co-owners of the rental property. He stated that he has been a Landlord since 2009 when he purchased his first rental property.

13. Mike Paquette testified that:

a. heating and cooling is provided by a single furnace for both rental units.

b. the basement tenant hydro includes the cost of running the furnace and AC.

c. they had contemplated installing wifi temperature sensors in the basement and did not do so as the Tenants in upper unit objected to this.

d. they had met early on when this issue arose and were unable to find common ground to resolve this. For example, the remote sensors would need to connect to the thermostat via wifi and that the Tenant would have to provide wifi access. The Tenants declined to do so. Thereafter, they preferred all contact go through the property management firm.

e. that he directed a lock-cover be installed over the thermostat in the upper unit, and that he would not likely have given a key to the lock to the Tenants. Because the Tenants has issues with the lock cover, it was decided not to install the cover.

f. he believed that the repairs had been timely.

14. It is therefore uncontested that the thermostat broke down January 23, 2022 and was not finally repaired until September 16, 2022. This is a period of almost 8 months. Noting that it occurred in the winter, was endured over the hot temperatures in the summer, and that there was no reasonable explanation offered as to why it took so long to resolve. The Landlord appears to have used this as an opportunity to either give some control to the other Tenant or for an Agent of the property management company to control the thermostat. The delay was unreasonable.

15. In considering the maintenance issues raised by the Tenant I have taken guidance from Board Interpretation Guideline 5, *Breach of Maintenance Obligations*. This Guideline provides an overview of the Board's usual interpretation of the law regarding a landlord's obligation under section 20 of the Act.

16. For the reasons noted above, I am satisfied on a balance of probabilities that the Landlord failed to meet the Landlord obligations under subsection 20(1) of the Act to repair or maintain the rental unit or residential complex and failed to comply with maintenance standards by not ensuring timely repair or replacement to the thermostat.

17. The Landlords efforts to request that the tenants in both units work out a solution to the temperature settings, or that they share settings via the remote sensors had only prolonged unnecessarily this issue. This remains an ongoing issue between all tenants and the Landlord.

T2 Application

18. As explained below, the Tenant proved the allegations contained in the application on a balance of probabilities. Therefore, the Landlord must compensate the Tenants.

19. The Tenant pursued the following issues in this application:

    a. the rental unit was not properly cleaned when they first occupied the unit.

    b. The hot water tank did not work when they first occupied the rental unit.

    c. On May 26, 2020, discovered that the ac breaker that controls the ac is located in the basement and as such the tenant in the lower unit can turn off the breaker or fail to turn it on in the spring.

    d. There were no cable or telephone connections installed in the rental unit.

e. That maintenance issues were being reported to the Landlord and that they were taking too long to be resolved. That the Landlord was serving excessive notices of entry for maintenance issues.

f. There were safety issues with the deck in that there were broken steps, holes and nails sticking out.

g. The Landlord made the driveway wider for parking, but that the curb did not change, therefore they shared a common entry with tenants in lower unit who park two vehicles. That there was no designated parking and at times the lower tenants parked too close to the door that blocked access.

h. The Landlord required that the Tenants share the yard work and snow clearance.

i. The hydro bill creates animosity with the lower tenants because the furnace and AC are included on the lower tenant hydro utility bill.

j. The lack of repair to the thermostat from January 2022 until September 2022 substantially interfered with their reasonable enjoyment of the rental unit.

k. The Landlord served an N5 notice of termination alleging that the Landlord was receiving complaints from the lower unit Tenant about yard work and the HVAC.

l. That the Tenants had to complain to the municipality regarding serious safety issues when repairs were not undertaken in a timely manner. Specifically, that on September 7, 2022 the laminate flooring was lifting and shifting to the point that you could see into the lower unit and that the Tenant Jacey Corriveau went through the floor and injured herself. This was only repaired between December 15-18, 2022, after the Landlord received an informal order from the City.

m. That an employee of the Landlord and former tenant in the lower unit wrote a disparaging letter about the Tenants.

20. I note that the Tenant's T2 application was received by the Board on March 28, 2021. This means that any issues that are more than 12 months old from the date of the application cannot be considered and that compensation should not be awarded beyond that timeframe. See subsection 29(2) of the Act.

21. As a result, I have not considered the issues of cleanliness, hot water and cable or TV outlets in my deliberations and need not summarize the testimony on these issues.

22. The Tenant provided the following testimony in regard to the remaining issues:

a. Timeliness of Repairs. The Tenant testified that the Landlord took too long to address issues. For example screen repairs and door repairs first reported in April 2020 were not finally repaired until August 13, 2020, thermostat delay as discussed above. Steps to deck reported on May 25, 2020 and not repaired till June 13, 2020. The flooring was another example, issues first reported in February 2022 and only repaired in December 15-18, 2022 after the City issued a repair order.

b. Notices of Entry. The Landlord provided an excessive number of notices of entry to address maintenance issues, sometimes 3 or 4 or more. The property manger would send a contractor, the Landlord would send a contractor and then the Landlord was inspect and finally the Landlord would make the repairs themselves. Some notices were not 24 hours in advance, and all notices were given by email. The Tenants also stated that they felt the Landlord was intimidating them by serving a notice to enter for May 29, 2023 between 7-8 p.m. They expressed concern that the Landlord continued to insist on entry even after they knew that the Tenant Jacey Corriveau was uncomfortable having “men” enter the unit while she was home alone.

c. Unsafe Deck Steps. These were reported to the Landlord on May 25, 2020, that the steps were rotting and had broken through was unsafe for use. The Landlord’s email dated June 8, 2020 indicates that the Landlord was aware and was planning on making the repairs.

d. Parking Access. The Tenants indicated they were not advised that the Landlord intended to widen the driveway until the work was underway. Although the driveway was widened by removing a section of the front lawn, the driveway entry remained a single car entrance. At times they had to request to other Tenant to move their vehicle from blocking the entrance or to move their vehicle to park or depart. There was and remained a lack of designated parking that causes friction with the other Tenant. The Tenants indicated that the property Management company advised that the City was responsible for the curb and would “look after this”.

e. Yard work and Snow removal. The Tenants indicated that the lease agreement specified that they were responsible for yard work and snow removal. This created friction with the other tenant about who was doing the work, and how it was shared. The additional lease terms stated that the Tenants were responsible for providing own tools for all yard work and snow removal. The Tenants were reminded of this by letter dated March 10, 2023 which they viewed as harassment. This was also part of the allegations included in an N5 notice of termination.

f. Hydro. The Tenants testified that because the HVAC is paid via the other Tenant's Hydro bill that it causes animosity between them. They had offered to contribute to other Tenants hydro bill, although they feel it is a Landlord issue to resolve.

g. Heat & AC. The Tenant testified that this issue causes the most serious issues with the other tenant. The temperature difference between the units has been a difference of 3-5 degrees and sometimes higher. They were constantly asked to turn the AC down or off in summer.

h. Use of Common Yard. After the Tenants were served an N5 notice of termination on April 24, 2021, the Tenant's Jacey Corriveau's anxiety issues worsened. She avoided going outside or using the yard whenever the other Tenants were home to avoid all contact with them. The Tenant stated that 8 or the 12 issues in the N5 notice of termination were all related to the HVAC issues (that have been discussed throughout this decision). Of the other allegations, the other tenant had never raised these with them. Yet the Tenants were advised to work things out with the other Tenants when they had issues with them.

i. Lease Termination. The Tenants testified that the Landlord had suggested that the rental unit was not a good fit for them and that they would be better off in a different rental such as a condo. The Landlord made offers to encourage them to vacate. The Tenants felt that this was harassment to encourage them to leave because the Landlord was unable to address the most pressing issues between the two rental units.

23. The Landlord Mike Paquette testified regarding the T2 issues. I have summarized the relevant testimony that I have considered in my deliberations, particularly as the Landlord did not address each issue individually.

a. He confirmed only one furnace and AC for both units. That the thermostat was in the upper unit. He indicated that they felt the problem was because the Tenant Jerry Corriveau did not think he should accommodate the other tenant. Stated that they were not able to find a common ground with the Tenants and thereafter left it with the Property Management company to address.

b. That the first instance of lack of AC was because the breaker that is located in the other rental unit had not been turned on.

c. Confirmed that they had not found a resolution to the HVAC issues.

d. Confirmed that many contractors and they themselves had entered the unit to address maintenance issues. They always felt the Property Management

contractor pricing was too high, then sent their own contractor, and then decided to inspect themselves and do the repairs.

e. The Landlord stated that they felt maintenance issues had been resolved in a timely manner, with the exception of the flooring.

f. They believed that notices of entry had been given on 24 hours notice and did agree that less then 24 hours notice of entry was unreasonable.

24. The Landlord requested that Nada Cupic testify.

25. The Board expressed concern that Nada Cupic was a licenced paralegal and that her testimony might be protected by privilege.

26. The Landlord submitted that Nada Cupic is not a practicing paralegal and only acts as a leasing agent for the property management firm. However, it was pointed out that the Law Society website on August 4, 2023 shows Nada Cupic is practicing “in private practice”.

27. The Landlord submitted that only Howard Tovarges provides legal advice to the property management company. However, the Landlord confirmed that Nada Cupic signs notices of termination in her capacity as a paralegal. Therefore, it is inconceivable that a licensee would be signing a notice of termination without providing a legal opinion or legal advice that the notice of termination was warranted in all of the circumstances.

28. The Landlord confirmed at the hearing on August 4, 2023 that there was not anyone available from KW Property Management to testify regarding the role of Nada Cupic at the company. The Landlord did not seek an adjournment preferring to rely solely on the testimony of Mike Paquette.

29. As a result, the Landlord withdrew the request for Nada Cupic to testify.

30. The Landlords submissions included a copy of a letter and notice to vacate provided by one of the other tenants. It was uncontested that the author of this notice was also at that time an employee of PW Property Management. Although not referred to by the Landlord the Tenant referred to this letter to state that they felt the letter was fabricated or embellished as a response to the Tenants applications. The tenant had never mentioned any issues with them and Jerry Corriveau thought that they had had a good relationship.

31. I was satisfied that the Landlord failed to conduct repairs in a timely manner. The HVAC as discussed above, the flooring as admitted to by the Landlord, the screen repairs that took 4 months to be completed, and the lack of urgent action to address a known safety issue with the deck steps that took almost a month to complete only after it reported by the Tenants.

32. I have reviewed the Boards Interpretative Guideline 19, - The Landlord's Right of Entry into a Rental Unit. I was satisfied that the frequency of entry by the Landlord to effect repairs was excessive. Multiple quotes and entry to then decide to do the repairs themselves was unnecessary and unreasonable. There were times when the Landlord indicated that they "would be in the area that day" and wanted to drop by for something. As such I am satisfied that on several occasions the Landlord had failed to provide a minimum 24 hours notice of entry. I note that entry for maintenance that is a Landlord responsibility in common areas does not require a notice of entry. However, it would be a courtesy to advise the Tenants of pending work on a common deck or when yard work would be undertaken so that they do not inadvertently plan to be using the yard for an activity or social event.

33. I am satisfied on a balance of probabilities that the ongoing HVAC issues has been a source of constant friction with the other tenant and the Landlord. The Landlord's expectation that the tenants work things out is unreasonable.

34. I am satisfied that the Hydro issues that remain ongoing, are also a constant friction with the other Tenant and the Landlord. It is unreasonable that the Tenants are expected to find a way to work out the hydro bills so that it is equitable for both.

35. The Ontario Court of Appeal in *Montgomery* v. *Van*, 2009 ONCA 808 (CanLII) has held that a Landlord may "contract for services" for a tenant to undertake some of the Landlord's obligations under the Act and Regulations. However, if included in the tenancy agreement, the provisions must clearly define the individual Tenant's tasks clearly enough to create an enforceable contractual obligation, failing which the provisions would be found to be nothing more than an impermissible attempt by the Landlord to avoid his statutory obligations and render the provisions void.

36. I am satisfied that the portion of the lease agreement that purports to impose an obligation on the Tenants the responsibility for yard work and snow clearance have led to ongoing friction with the other tenant and the Landlord. Section 4 of the Act states that any provision of a tenancy agreement that is inconsistent with the Act is void. This part of the agreement is void and cannot be enforced.

37. Ontario Regulation 517/06 at para 2(2) specifies that the Landlord shall ensure the maintenance standards are complied with.

    a. Paragraph 15 sets out the requirement for heat.
    b. Paragraph 26 sets the maintenance standards for exterior common areas, including snow removal.

c. Paragraph 28 sets the maintenance standards for safe and normal use of driveways.
d. Paragraph 45 sets out that the Landlord is responsible to provide garbage containers.

38. For the reasons set out in paragraphs 30 to 37, I am satisfied that on a balance of probabilities that the landlord has interfered with the Tenants reasonable enjoyment of the rental unit. For the most part, the Landlord has created the conditions that have contributed to the majority of the issues raised in these two applications. First by having one furnace and AC for two rental units, and by not ensuring that all Tenants could regulate the temperature in their own respective units. Second, by expecting one tenant to cover the hydro for heat and AC for both units and failing to disclose this to the affected tenant.

39. I am also satisfied that on a balance of probabilities that the Landlord has harassed the Tenants. They have provided excessive and unnecessary notices of entry, sometimes with less than 24 hours notice, by serving an N5 with allegations that were for the most part all the responsibility of the Landlord, and by requesting that the Tenants vacate voluntarily. The Landlord is aware at least since the hearings that the Tenant Jacey Corriveau has issues with “men” entering her unit in the evenings and/or when she is alone and as such should make every effort to accommodate the Tenants when contemplating any entry. It is likely that they were wilfully blind to this even after repeated responses to notices of entry from Jerry Corriveau that he should be present for any entry to the rental unit. It is unreasonable to suggest that the Tenant not be present so that the Landlord could enter as that is indicative of an unwillingness to satisfy their duty to accommodate the Tenants.

Remedies

40. The Tenants requested a rent rebate of 50% since the tenancy began and ongoing until all of the issues are fully resolved.

41. The Tenants also requested that the Board order the Landlord do something, such as better insulation, carpeting and something for heat in the basement.

42. The Tenant Jerry Corriveau testified that this ordeal has been stressful on him as a father and grandfather, due to the constant attention he must give to address the issues and the failure of the property management firm and the owners to try to resolve issues that is mutually satisfactory to all parties. That in dealing with this it has detracted from his own

personal well-being and health. He stated that he does not like to see his daughter suffer with her worsening anxiety and she does not need the stress caused by these issues. He indicated that he felt like the Landlord was trying to place all the blame on them and make them look like bad tenants. Jerry Corriveau confirmed that the Landlord was aware from the outset when they applied for this rental that the Tenant Jacey Corriveau was on ODSP, a disability benefit, which they believe is why the Landlord listed Jerry Corriveau as a cotenant. He also submitted that they had mentioned in many emails that Jerry Corriveau had to be present for any entry; all done to mitigate the impact on Jacey Corriveau.

43. I do note that Jacey Corriveau did not testify, and no medicals reports were submitted to the Board beyond the general comments on her medical issues at the outset of the hearing on June 7, 2023. Jerry Corriveau submitted that his daughter has been traumatized by these issues that have been ongoing for over three years.

44. The Landlord submitted that they may not have acted as quickly as they could have, noting that many issues occurred during COVID. The Landlord submitted that they acknowledge that maybe on 1 or 2 occasions they may not have provided 24 hours notice of entry.

45. The Landlord submitted that the thermostat issue was a “control” issue and not a “temperature” issue.

46. The Landlord submitted that the only late repair was the flooring, and that some compensation might be necessary for this.

47. I find that it is reasonable that a tenant would want to have some control over the temperature setting in their rental unit. It was uncontested that for these Tenants having that control over the temperatures was an important factor in renting this unit and that they firmly believe that they have paid a premium for that control. This “premium fee” was uncontested by the Landlord.

48. Abatement of rent is a contractual remedy. It reflects the idea that rent is for a bundle of goods and services and if a tenant is not receiving everything they are entitled to then the tenant is entitled to abatement proportional to the difference. Assessing quantum is something of an art and will vary based on a number of factors including the nature of the problem, the length of time or frequency of the breach, and the impact on the Tenant.

49. Section 30 allows a Member to order an abatement of rent. This is a monetary award expressed in terms of past or future rent. It may be a lump sum payment the landlord is ordered to pay the tenant, which effectively orders the landlord to give back part of the rent paid. It may be an order to allow the tenant to pay less rent by a certain amount or

percentage, or even to pay no rent, for a specified time period. It could also be a combination of these.

50. The T6 application indicates that when filed the monthly rent was $1,771.00. There was no evidence of any change in rent. Therefore, the abatement shall be calculated based on this amount.

51. I am satisfied that in all the circumstances for the Landlord's failure to repair the thermostat in a timely manner that an abatement of rent of 25% for the 8 months is reasonable. The Tenants stated that they pay a premium for rent to have control over the thermostat and temperature in the rental unit and that the significant amount of time was unreasonable to effect repair. Therefore, the Landlord shall be ordered to pay $3,542.00 as a rent abatement for this issue.

52. I am satisfied that in all the circumstances that for the Landlord's harassment and interference with reasonable enjoyment that a further rent abatement of 15% for the duration of the tenancy is reasonable. The Landlord has created the conditions that have led to the constant friction between tenants and has failed to take any action to remedy it, and in fact attempted to deflect all blame on this tenant by serving the Tenant an N5 notice of termination where 8 of the allegations relate to temperature control and settings affecting the other tenant, and Landlord maintenance obligations. The Landlord also attempted to contract out of their maintenance obligations by making that a term of the tenancy, which as noted above is void. Therefore, the Landlord shall be ordered to pay $10,891.65 for the period ending August 31, 2023.

53. Noting that the HVAC and hydro issues remain the ongoing source of friction between the Landlord, and all the tenants, the Tenants shall be entitled to an ongoing rent abatement of 10% until a mutually satisfactory resolution is found. That resolution should ensure the Tenant's retain control over the temperature in their rental unit; that the other tenant is given a means to regulate the temperature in their rental unit (heating and cooling as required) without need to have the upstairs Tenants adjust their temperature; and a resolution to the hydro billing. It is recommended that any resolution be codified in a written agreement. The Tenant shall be permitted to reduce monthly rent payments by 10% commencing September 1, 2023 until resolved.

54. The Tenants paid $53.00 for each application and shall be entitled to be reimbursed these application fees

It is ordered that:

1. The Landlord shall pay the Tenant is $14,539.65. This amount represents:

    - $14,433.65 for a rent abatement for the period ending August 31, 2023.
    - $106.00 for the cost of filing the applications.

5. The Landlord shall pay the Tenant the full amount owing by September 3, 2023.

6. If the Landlord does not pay the Tenant the full amount owing by September 3, 2023, the Landlord will owe interest. This will be simple interest calculated from September 4, 2023 at 6.00% annually on the balance outstanding.

7. If the Landlord does not pay the Tenant the full amount owing by September 3, 2023, then commencing October 1, 2023 the Tenant may recover this amount by deducting an amount equal to 50% of the monthly rent from the monthly rent that comes due until there is no longer any money owing.

8. The Tenant's have the right, at any time, to collect the full amount owing on any balance outstanding under this order.
9. The Tenants are entitled to an ongoing rent reduction equal to 10% of the monthly rent, commencing September 1, 2023 until the HVAC and hydro billing issues are mutually resolved to everyone's satisfaction.

10. The provisions of the Tenancy agreement that purports to make the Tenants responsible for the Landlords maintenance obligations are void and of no force and effect. The remainder of the lease agreement remains in effect.

11. The Landlord shall ensure that they comply with the Landlord's obligations for maintenance as set out in Ontario Regulation 517/06 at para 2(2) and specifically, without limiting this in any way, the Landlord shall ensure the maintenance standards are complied with.

    a. Paragraph 15 sets out the requirement for heat.
    b. Paragraph 26 sets the maintenance standards for exterior common areas, including snow removal.
    c. Paragraph 28 sets the maintenance standards for safe and normal use of driveways.
    d. Paragraph 45 sets out that the Landlord is responsible to provide garbage containers.

August 23, 2023
Date Issued

_____
Robert Patchett
Vice Chair, Landlord and Tenant Board

15 Grosvenor Street, Ground Floor
Toronto ON M7A 2G6

If you have any questions about this order, call 416-645-8080 or toll free at 1-888-332-3234.