

Dispute Resolution Services

Residential Tenancy Branch
Office of Housing and Construction Standards
Ministry of Housing and Social Development

Decision

Decision Codes: CNR MNDC O

Introduction

This application was brought by the tenant on October 3, 2008 seeking a Monetary Order for aggravated damages and a rent reduction after the landlord failed to complete repairs by September 30, 2008 as ordered in a previous hearing. The application also includes a claim that the landlord issued a Notice to End Tenancy for unpaid rent after she offered a rent payment \$300 short as authorized by the previous order.

By the time of the hearing, the matter of the \$300 rent reduction had been remedied with the landlord having accepted the cheque and the Notice to End is unenforceable.

Issues to be Decided

This matter requires a decision on whether the tenant is entitled to aggravated damages and a rent reduction on the grounds of incomplete work.

Background and Evidence:

This tenancy began February 1, 2007 and rent is \$830 per month.

The initial dispute was heard under File No. _____ on September 12, 2008. As a result of that hearing, at which the landlord was not in attendance, Dispute Resolution Officer _____, ordered as follows:

1. That the tenant could withhold \$300 from the October 2008 rent in compensation for loss of quiet enjoyment;
2. That the landlord take steps toward ensuring the upstairs tenant did not disturb the applicant tenant;

3. That the landlord repair water damage to the bedroom and bathroom, fix the linoleum and install a water regulator by September 30, 2008.

During the hearing, the landlords gave evidence that they had not been able to attend the previous hearing as a result of their son's wedding, and that they had applied for an adjournment without success. In any event, I have no authority to revisit the previous hearing under the present application.

As to noise from the upstairs tenant, the landlord stated that he had contacted them after the last complaint and was assured that no party had taken place on the night in question and that tenant had come home from an evening shift and gone directly to bed.

As to the incomplete work, the landlord gave evidence that all work had been completed except for the water regulator (a device to keep water temperature in a shower constant even if cold water is drawn from another fixture) and the linoleum.

The tenants contended that further carpet cleaning was required as some odour and staining remained. While the landlord gave evidence that he had recently spent \$1,792.98 on such issues, including cleaning the carpets in question twice, he stated that the cleaning company had attributed the lingering odour to dog urine. The tenant contested that her elderly and ill dog did not have accidents in the house. The landlord agreed that he would attend the rental unit to examine the carpets again and attempt to ascertain if the carpet is malodorous.

The landlord also submitted a letter from their maintenance manager dated October 10, 2008 apologizing that he had not been able to attend to the linoleum problem due to a series of more urgent matters.

However, he said that he had called the tenants on October 4, 2008 to arrange a time. The female tenant had said she would get back to him but had not done so.

Another letter from a painting and decorating company representative, stated that he had had been engaged to do some work on the bathroom. When he was running late

and called to advise the tenants, he stated that the female tenant was “very rude and abrupt.” When he called again a couple of days later to arrange a new time, the tenant was again rude.

After that, he called the maintenance manager and asked him to find someone else to do the job.

A note from the cleaning company also noted that the tenants would not admit them at the scheduled time, would not contain the dog, said workers had not called when they had, complained constantly during the work, made them leave after two hours, and closed the door and window in a room in which the carpet was still wet.

The tenant stated that she had not wanted to contain the dog due to his illness and that she had had a previous appointment that caused her to bring the work to a stop after two hours.

Analysis

On balance, I find that the landlord has done everything reasonable and within his power to address the tenants’ concerns and comply with the orders from the previous hearing.

I accept his evidence that the difficulty in engaging repair services in the current climate combined with the tenants’ lack of flexibility and cooperation in accommodating repair work have factored largely in the work not being done on time.

Conclusion

The tenants’ application for aggravated damages and rent reduction is dismissed without leave to reapply.

However, the landlord remains responsible for completing the work as ordered in the previous hearing and to reassess to carpet odour and staining and to make such remedy as a reasonable person would under the circumstances.

Dated: October 23, 2008.