



Dispute Resolution Services

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

Decision

Dispute Codes: MNDC, RP, FF

Introduction

This matter dealt with an application by the Tenant for an order that the Landlord make repairs to the rental unit or in the alternative a monetary order for compensation for damage or loss under the Act or tenancy agreement as well as to recover the filing fee for this proceeding.

Issue(s) to be Decided

1. Is the Tenant entitled to compensation and if so, how much?
2. Are repairs required?

Background and Evidence

This tenancy started on December 1, 1998. Rent is \$910.00 per month (including some utilities). The Tenant said that when she moved into the rental unit the Landlord (at that time) offered to replace the carpet in the rental unit because it was old. The Tenant said the carpet was not damaged so she did not have the carpet replaced. The Tenant claimed the carpet is now at least 17 years old and is worn through in spots. She said it is also discolored in other high traffic areas and this cannot be remedied by cleaning it. The Tenant said the rest of the carpeting in the rental unit is thin, stained and old looking with no cushion left to it.

The Tenant estimated that the linoleum in the kitchen was the same age as the carpeting and is now lifting along 2 edges. In support of her claim, the Tenant provided photographs of the damaged areas of the carpet and linoleum together with a written statement from a house contractor, Peter Wolkow, who inspected them and determined that due to their age, they should be replaced. He also claimed the damages to the flooring, were not cosmetic in nature. The Tenant said she has brought these matters to the Landlord's attention a number of times in the past 6 months, but the Landlord would not replace them.

The Landlord admitted that the carpeting and linoleum in the rental unit were old and worn in spots but claimed that the damages in question did not pose a safety hazard and were cosmetic in nature. The Landlord claimed that it would cost approximately \$3,000.00 to replace the carpeting and linoleum in the rental unit and that he could only

justify doing so if it was possible to recover the cost by raising the rent. The Landlord argued that the Tenant's rent was significantly under market value. The Landlord admitted that given the low vacancy rate, if the Tenant moved out, the Landlord probably would replace the flooring because he could then charge higher rent for the unit.

Analysis

Section 32 of the Act states (in part) that a Landlord must provide and maintain property in a state of decoration and repair that complies with health, safety and housing standards and that makes it suitable for occupation by a tenant.

I find on a balance of probabilities that the carpeting in the dining room of the rental unit is badly worn (through to the underlay) and needs to be replaced. While the carpeting in the hallway appears to be discoloured, I am not satisfied that it needs to be replaced as it has been 2 years since the carpet was cleaned and it may still be able to be salvaged. While I accept that the rest of the carpeting in the rental unit is old, I find there is insufficient evidence that it is in a condition that makes the rental unit unsuitable for occupation.

I also find that the linoleum in the kitchen needs to be repaired. The edges along 2 walls are lifting significantly. I find that due to the age of the laminate, the glue holding it to the sub-floor is coming apart and as a result, more of the linoleum will probably lift in a short period of time if remedial work is not taken.

As a result, I order the Landlord to replace the carpeting in the dining room of the rental unit and to repair the linoleum in the kitchen where it has lifted. The Landlord must complete these repairs **no later than March 15, 2009**. If the Landlord fails to complete the repairs by March 15, 2009, the Tenant will be at liberty to deduct the amount of \$75.00 per month from her rent commencing April 1, 2009 and for each month or part month thereafter for which repairs are not made.

As the Tenant has been successful in this matter, she is entitled to recover her \$50.00 filing fee for this proceeding and may deduct that amount from her next rent payment when it becomes due and payable to the Landlord.

Conclusion

The Tenant's application is allowed.