



Dispute Resolution Services

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

DECISION

Dispute Codes: RP, ERP, RR and FF

Introduction

This application was brought by the tenants seeking orders for repairs and emergency repairs and a future rent reduction of \$600 per month in compensation for loss of quiet enjoyment due to a worsening roof leak.

Issue(s) to be Decided

This application requires a decision on whether the tenants are entitled to a rent reduction for the loss of quiet enjoyment of the rental unit and orders for repairs and emergency repairs.

Background and Evidence

The first tenancy began January 1, 2009. Rent is \$1,200 per month and the landlord holds a security deposit of \$600 paid on January 1, 2009.

The rental unit is in a 12 unit strata building in which the landlord owns five of the units. The landlord was represented by a cousin and the building's caretaker.

During the hearing, the tenant submitted photographic evidence showing a number of leak holes and sags in the ceiling of the rental unit and exterior roof photographs showing that the tar and gravel roof was worn through to the tar paper in places among other deficiencies.

He gave evidence that he had, on entering into the rental agreement, he and his co-tenant acknowledged some ceiling staining and had agreed to accept the rental unit “as is” but that the situation had worsened considerably.

The tenant also submitted a copy of a letter from the city’s chief building official ordering that the roof be repaired by February 17, 2009. Although the work has not yet been completed, the landlord’s representative gave evidence that the strata council was working toward compliance.

A Notice to End Tenancy for landlord use has been issued to the tenants to allow for the necessary renovation of the rental unit and set an end of tenancy date of April 30, 2009. The tenant indicated that the Notice to End is being contested.

Analysis

I find that the rental unit has degraded since the tenants entered into the rental agreement. However, I do not find that the degree of deterioration warrants a rent reduction of \$600 per month as requested by the tenants.

The tenants were aware of a problem when they entered into the rental agreement and could have anticipated that it might well worsen and I find that they voluntarily accepted some degree of risk.

However, I do find that the tenants, beginning with the March 2009, are entitled to a rent reduction of \$200 until the roof and ceiling are repaired or until the tenancy ends.

As there is a current municipal order for repairs under threat of penalty, and as delay in the repairs will compound the damage and further devalue the rental unit, and as the landlord is seeking vacant possession to repair the rental unit, I do not find it necessary to issue a further order for repairs at this time.

Conclusion

I hereby authorize and order that the subject rent is reduced to \$1,000 per month starting March 1, 2009 until the first rent due day following completion of the roof repairs and the interior ceiling is restored to at least the condition it was in at the beginning of the tenancy.

I find that the filing fee for this proceeding should be shared between the parties and authorize the tenants to withhold a further \$25 from the rent for March 2009 to recover the landlord's portion.

February 19, 2009

Dispute Resolution Officer