

Decision

Dispute Codes: OLC, RP, RR

Introduction

This hearing dealt with an application from the tenant for an order instructing the landlords to comply with the Act / regulation / tenancy agreement, an order to make repairs to the unit, and permission to reduce the rent for repairs, services or facilities agreed upon but not provided. Both parties participated in the hearing and gave affirmed testimony.

Issues to be decided

- Whether the tenant is entitled to any or all of the above under the Act

Background and Evidence

Pursuant to a written residential tenancy agreement, this month-to-month tenancy began in 1990. Currently, rent in the amount of approximately \$400.00 is payable each month. It is understood that the subject unit is one of 65 units in a nine-story building which opened in 1988. The tenant cites concerns with worn paint and worn carpets in his unit, neither of which have been renewed in 17 years. Further, the tenant identifies an ongoing problem with mice.

In a written submission, the landlords describe the rental facility and the management structure in part, as follows:

[the facility] is a rental building for low income senior citizens. [The society] leases the land from the Provincial Rental Housing Corporation. BC Housing approves the operating budgets and subsidizes the rents and operating costs. The sole sources of revenue are the tenant rent contributions and the subsidy from BC Housing. Tenants pay either 30% of their income or a flat / minimum rent based on the BC Housing Rent Scale.

[The society] is a non-profit charitable organization with an elected governing body referred to as the Board of Directors.

From 1978 [sic] to 2005 the Board of Directors managed [the facility] and had onsite administrative staff. In 2005 the Society signed a contract with [the property management company] to manage the building.

The landlords acknowledge that paint and carpets in the unit are both about 17 years old. However, the landlords advise that “2 prior legal actions” contributed to underfunding of the Replacement Reserve, which is intended to be used to cover the costs of “fridges, stoves, painting and other pre-defined capital improvements.”

Further, the landlords report that as a result of an engineering study undertaken in 2005, it was confirmed that “heating pipes were due to be replaced.” In October 2009, “BC Housing announced its intention to proceed with [the facility’s] re-piping project within the next year,” although a start date for the project has not yet been confirmed.

In relation to delay in repainting units and replacing carpets, in its submission, the landlords state as follows:

....because the re-piping project is an extensive remediation that involves opening the walls in common hallways and suites, no major capital improvements such as repainting or carpet replacement should take place until this work is done, as this would result in the improvements having to be performed twice. Following replacement of the pipes, the funds required to close, repair and repaint all walls and to replace existing carpets must come from the building’s Replacement Reserve. As stated earlier, the extremely limited amount available in the Replacement Reserve is not sufficient to enable this work to be carried out in the same apartment both before and after the re-piping.

The Board of Directors has been working within its limited budget constraints to develop a suite renovation plan. This plan includes painting and floor replacement in all suites occupied by the same tenant for 10 years or more.

[...the tenant's unit...] will be one of the first suites on the building's "renovation list" upon conclusion of the re-piping project.

As for the problem with mice, in its submission the landlords state in part, as follows:

....the building has a service agreement with [the pest control company].

Servicing of all common areas and any suites with particular issues takes place every second Wednesday of each month. Additionally, [the landlords] employed [the pest control company] to inspect [the tenant's unit] on November 19, 2009.

The results of this inspection (attached) revealed that there is no pest activity in [the tenant's] suite at this time. [The pest control company] refilled bait stations and requested that [the tenant] clean his outside balcony, as the items left there can be a nesting place for rodents.

During the hearing the parties exchanged views on some of the circumstances surrounding the dispute. As the tenant has recently been in hospital, he acknowledged that he had not yet had an opportunity to review the landlords' submission, which sets out a plan for remedying concerns about repainting and replacement of carpets. However, the tenant agreed that he would review the submission and thereby inform himself of the landlords' response to his concerns.

Analysis

For the information of the parties, section 32 of the Act speaks to **Landlord and tenant obligations to repair and maintain**, and provides as follows:

32(1) A landlord must provide and maintain residential property in a state of decoration and repair that

- (a) Complies with the health, safety and housing standards required by law, and
- (b) Having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.

(2) A tenant must maintain reasonable health, cleanliness and sanitary standards throughout the rental unit and the other residential property to which the tenant has access.

(3) A tenant of a rental unit must repair damage to the rental unit or common areas that is caused by the actions or neglect of the tenant or a person permitted on the residential property by the tenant.

(4) A tenant is not required to make repairs for reasonable wear and tear.

(5) A landlord's obligations under subsection (1)(a) apply whether or not a tenant knew of a breach by the landlord of that subsection at the time of entering into the tenancy agreement.

Additionally, for the information of the parties, Residential Tenancy Policy Guideline # 37 sets out the "Useful Life of Work Done or Thing Purchased," and establishes the useful life of interior paint as 4 years, and the useful life of carpet as 10 years.

Section 63 of the Act provides that the parties may attempt to settle their dispute during a hearing. Pursuant to this provision, discussion between the parties during the hearing led to agreement around steps to be taken toward resolution of the dispute.

Specifically, it was agreed as follows:

- that the landlords have recently already taken specific steps to address concerns about mice in the tenant's unit ;
- that the landlords will assess whether it is feasible to replace the carpet in the tenant's unit in a timely fashion, depending upon whether or not flooring in his unit will be required to be removed when pipes are replaced;
- following from the above, that if flooring in the tenant's unit will be required to be removed when pipes are replaced, as an interim measure to maintain housing standards the landlords will undertake FORTHWITH to shampoo the carpets in the tenant's unit;

- that the landlords will assess whether there are *some walls and / or some rooms* in the tenant's unit which, because they will not require opening for pipe replacement, can be repainted FORTHWITH.
- that the landlords' agent at the hearing will liaise directly with the tenant and apprise him of the outcome of the above assessments.

Conclusion

Following from all of the above, I hereby order the landlords to FORTHWITH undertake assessments related to repainting and replacement of carpets in the tenant's unit, and to apprise him of the respective outcomes.

Further, where it is assessed to be feasible in relation to work anticipated with replacement of pipes, I hereby order the landlords to FORTHWITH undertake repainting and carpet replacement in the tenant's unit.

DATE: December 7, 2009

Dispute Resolution Officer