

DECISION

Dispute Codes ERP RP MN

Introduction

This hearing dealt with an application by the tenant for a monetary order and a repair order – both emergency and non-emergency. Both parties attended the hearing and had an opportunity to be heard.

Issues(s) to be Decided

Is the tenant entitled to a monetary order?

Is the tenant entitled to a repair order?

Background and Evidence

This tenancy began on February 1, 2009. The rent is \$700.00 due in advance on the first day of each month. The rental unit is a 900 square foot three-storey townhouse in a fourplex in Abbotsford. The tenant lives in the rental unit with her young daughter. Since moving into the rental unit, the tenant has made many physical changes (“upgrades” as described by the tenant) to the unit, some of which could be classified as outright renovations. The tenant did not get prior approval from the landlord before embarking on these changes and renovations. The tenant states in her evidence that everything she did “in the past 13 months...it has either leaked, was broken or was falling apart from age.” According to the tenant, she made a number of attempts to have the items fixed or replaced by the landlord but found that the landlord was too slow in response. The tenant also claims that due to the landlord’s inattention to certain repairs, the rental unit has become mouldy and she has suffered losses to her personal property. The landlord, on the other hand, claims that the tenant’s complaints about the rental unit only started after the landlord refused to reimburse her for “an 18-page list of things she wanted to be reimbursed for.” The landlord’s position is that the tenant conducted unauthorized changes to the rental unit and that if she has suffered any

losses to her personal property “it is due to her own work.” The landlord also submitted an inspection report dated March 20, 2010 which indicates that the rental unit is not mouldy. Furthermore, the landlord points to the addendum to the tenancy agreement which states that the tenant is responsible for obtaining contents insurance.

Analysis

The tenant has made a monetary claim of \$10,000.00 and has requested that repairs – both emergency and non-emergency be made to the rental unit. I shall deal with each claim in turn.

Monetary Claim

As a general rule, when a party makes a claim of this nature, that party bears the burden of proving the claim both as to liability and quantum on a balance of probabilities. In other words, the claimant must first prove that the respondent is responsible for the loss and then prove the amount of the loss.

In the present case, I am not satisfied that the tenant has proved either liability or quantum. On the issue of liability, I find that the tenant has simply made assertions, submitted a large number of undated and disorganized photographs and concluded that she is entitled to compensation. I am unable to find on the basis of the evidence before me that the tenant has successfully shown that the landlord is responsible for alleged damage to her property. I have looked at the photos submitted by the tenant at length and cannot understand how these photos support a claim that the landlord’s inaction caused damage to her personal property. Furthermore, it is not even clear from the photos of the “damaged” personal property that there is any “damage”. As a result, I dismiss the tenant’s application for a monetary order.

Repairs

The tenant has made a request for an order that the landlord make repairs, both emergency and non-emergency, to the rental unit.

Emergency - Regarding emergency repairs, the only item which seems to fall into this category (as defined by section 33 of the Act) is the furnace which, according to both parties, was completely replaced within the first month of the tenancy after the tenant reported problems. Another item that might have been considered an “emergency” item was the electrical system which the tenant complained about very early in the tenancy. This matter was also resolved however when it was simply found that the tenant had overloaded a specific circuit.

Non-emergency - As for other repairs the tenant claims need to be done to the rental unit, I am unclear after reviewing the entire file as to what exactly the tenant wants done at this point. In a letter to the landlord dated February 5, 2010, just a little over one month before the tenant filed her application, the tenant wrote as follows: “...*the suite is now warm, dry, draft-free and doesn’t smell of mildew/mould anymore.*” However, in the same letter the tenant also requests that the landlord repair the following: floor leak in ½ bath, tub faucet leak, two wobbly toilets, gap in (unspecified) door and leaking patio door and then goes on to provide a comprehensive list of the things she has already repaired in the unit – some of which she says she still wants the landlord to repair! I have to also balance the tenant’s request for repairs with the landlord’s submissions regarding the tenant’s conduct in the rental unit. According to the landlord the tenant has conducted so much of her own work in the unit, including changing faucets, weather strippings, insulation, light fixtures, etc. that many of the problems have been caused by her own actions.

In the result, I find that the submissions of the tenant are so contradictory and unclear regarding the items that need to be repaired that I must dismiss the tenant’s application for a repair order.

Conclusion

The tenant's applications are dismissed for the reasons set forth above.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.