

## **DECISION**

Dispute Codes      ERP, RP, OLC, MNDC, RR

### Introduction

This matter dealt with an application by the Tenant for an order that the Landlord comply with the Act by making emergency repairs and general repairs, for compensation for the Landlord's failure to make repairs and for a rent reduction until such time as the Landlord makes repairs.

### Issues(s) to be Decided

1. Is a repair order necessary?
2. Is the Tenant entitled to compensation and if so, how much?
3. Is the Tenant entitled to a rent rebate?

### Background and Evidence

This tenancy started approximately 5 years ago. Rent is \$600.00 per month which includes heat and hot water. The Tenant said that on November 12, 2009 she sent the Landlord by registered mail a request to make a number of repairs to the rental unit which included most of the following items:

- Damaged linoleum flooring in the hallway and bathroom;
- Damaged carpet in the living room and hallway by the bathroom;
- Drywall damage to the walls around the bathtub & shower area and ceiling;
- Mould in and around behind the bathroom ceramic tile shower surround;
- Toilet missing a wax seal and not secured;
- Bathroom faucet leaking inside vanity cabinet which has water damage;
- Leak in the bedroom ceiling dripping water near a baseboard heater and an electrical outlet;
- Water damage to a bedroom wall;
- Damaged kitchen window seals; and
- Kitchen taps have no knobs.

The Tenant provided photographs of the items she claimed needed repairs. The Tenant said the Landlord's building manager looked at the leak in the bedroom and at the toilet on April 11, 2010, made a list of the repairs, said he would have someone in to repair the drywall but none of the repairs have been done to date. Consequently, the Tenant sought compensation equivalent to her rent payment from the time she made a request for repairs until the date of hearing plus a rebate of rent until repairs are made.

The Landlord denied that he received a list of repairs from the Tenant until he received her evidence package in this matter. The Landlord argued that he has been doing extensive renovations to the rental property (which is approximately 30 – 35 years old) since 2008 which includes replacing damaged flooring and drywall. The Landlord said that renovations to the 42 suites in the rental property have been prioritized. The Landlord also said he relies on contractors from out of town to do some of the work and is restricted by when they are available but estimated that the flooring would be replaced and the drywall and plumbing repaired in the rental unit no later than 2 months from now. The Landlord also argued that the Tenant should not be entitled to compensation because he was unaware of the repairs, the repairs required to the suite were the result of general wear and tear and the Tenant had not lost the use of the suite.

The Advocate for the Tenant claimed that the Landlord has not done extensive renovations to the rental property and that it is in a general state of disrepair. The Tenant's advocate also claimed that while she knew of some vacant suites that had been renovated, she knew of no suites occupied by long-term tenants that had been renovated. The Advocate argued that the Landlord has a history of violating fire, health and safety codes. The Landlord claimed that all but a few minor violations had been rectified. The Landlord also argued that renovations were in progress for occupied suites but claimed that some of the tenants in them had obstructed access to his contractors. The Landlord also claimed that there was new carpeting in the hallways.

### Analysis

Section 32 of the Act says that “a landlord must provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law and having regard to the age, character and location of the rental unit, makes it suitable for occupation by a tenant.”

Section 33 of the Act defines an emergency repair (in part) as one that is urgent, necessary for the health or safety of anyone or for the preservation or use of residential property and made for the purpose of repairing major leaks in pipes or the roof (among others that are not relevant in this matter). Although the Tenant claimed that there was a leak in her bedroom ceiling, it is not clear what the source of that leak is and as a result, I cannot conclude that it is an emergency repair as defined by the Act. The Tenant also argued that the mould in the bathroom was an emergency repair however there was no evidence that the mould posed a health hazard.

I find that all of the repairs requested by the Tenant are more likely general repairs. I also find based on the photographic evidence of the Tenant (which was not disputed by the Landlord) that the rental unit is in a very poor condition. In particular, the carpeting in the living room is old, threadbare, and ripped and frayed in places. The linoleum flooring in the hallway is also old and worn to the subfloor below in one spot and in the bathroom the flooring is water stained and torn in one spot. The paper and paint on the

drywall surrounding the bathtub and shower area are peeling from being saturated with water and there appears to be black mould between and behind the ceramic tiles and on the ceiling. The leak from the bathroom vanity sink has also damaged the vanity cabinet. Part of the window seal in the kitchen appears to be missing and the glass is starting to fall out. The kitchen tap is missing a knob and the other is in bad shape.

I also find, however, that there is insufficient evidence that the Tenant served the Landlord with her list of repairs in November 2009 as she claimed. I do find, however, that the Landlord's agent made a list of repairs needed for the rental unit on April 11, 2010 and that as a result, the Landlord has been aware of them since that time at the latest. In the circumstances, I find that it would not be appropriate to make a compensation order for the Landlord's failure to make the repairs and that part of the Tenant's application is dismissed without leave to reapply.

The Landlord said that repairs requested by the Tenant could be made within a 2 month period of time. Consequently, **I Order the Landlord pursuant to s. 62(3) of the Act to *complete the following repairs to the rental unit no later than July 12, 2010:***

- Replace the damaged carpeting and linoleum flooring in the rental unit;
- Replace the damaged drywall and tiles in the bathroom;
- Repair the toilet and bathroom faucet;
- Repair the leak in the bedroom ceiling and any associated drywall damage;
- Repair the kitchen window seals; and
- Replace the kitchen tap knobs.

The Tenant must give the Landlord reasonable access to the rental unit so he can comply with this Order. **If the repairs are not *completed in full* by July 12, 2010, the Tenant will be entitled to deduct \$300.00 from her rent (due to a breach of the Landlord's duty to repair) for August 2010. The Tenant will also be entitled to deduct the amount of \$300.00 for each month or part month thereafter that repairs remain unfinished.**

### Conclusion

The Tenant's application for compensation is dismissed without leave to reapply. The Tenant's application for a repair order is granted as set out 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*.

Dated: May 12, 2010.

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Dispute Resolution Officer