

DECISION

Dispute Codes OLC, ERP, RP, FF

Introduction

This hearing dealt with the tenant's application for Orders for the landlord to comply with the Act, regulations or tenancy agreement; Orders to perform emergency repairs and repairs; and recovery of the filing fee paid for this application. Both parties appeared at the hearing and were provided the opportunity to be heard and to respond to the submissions of the other party.

Issues(s) to be Decided

1. Is it necessary to issue Orders to the landlord for compliance with the Act, regulations or tenancy agreement?
2. Is it necessary to issue Orders to the landlord to make repairs?

Background and Evidence

I heard undisputed evidence from the parties that water was seeping up through the floor and making the carpets wet after heavy rainfall. The tenant reported the problem to the landlord. An inspection was conducted approximately a week after the problem was reported. The landlord subsequently hired a contractor who specialized in waterproofing basements and a pump system was installed so that rainwater would be diverted to the drainage system and not seep into the rental unit in the future. After the pump system was installed a different contractor was hired to repair the drywall in the rental unit and he entered the unit without the tenant's consent while the tenant was sleeping. The repairs have now been completed but the carpets still require cleaning.

The landlord explained dampness in the unit previously so when it was reported by the tenant the last time the landlord waited a week to see if the wetness would dry out and

because the owner was on vacation. The landlord also testified that he was not aware the drywall contractor was going to attend the unit on a Saturday or enter the unit without consent and the landlord has apologized to the tenant for the unauthorized entry. The landlord assured me that he will ensure unauthorized entry does not happen again.

The landlord testified that carpet cleaning will be scheduled in the very near future. The tenant was uncertain if carpet cleaning would be sufficient.

The landlord raised the issue of non-payment of rent for the months of June and July 2010 but stated the landlord is willing to reduce rent for June by one-half in recognition of the inconvenience to the tenant during the flood and repairs. As unpaid rent was not an issue raised by way of the application filed, I encouraged the parties to reach an agreement with respect to payment of rent and informed the parties that if an agreement is not reached, the landlord is in a position to serve the tenant with a 10 Day Notice to End Tenancy for Unpaid Rent. The tenant would also be in a position to make an application seeking compensation for loss of quiet enjoyment.

Analysis

Having heard repairs have been completed in the rental unit with the exception of carpet cleaning, I ORDER the landlord to ensure the carpets are cleaned within one week of this decision. The tenant is informed that if she continues to have concerns about the cleanliness of the carpets after they have been cleaned she is at liberty to raise the issue with the landlord and if the parties cannot reach an agreement with respect to the carpets, the tenant is at liberty to make a subsequent application for dispute resolution.

Upon hearing from the landlord I am satisfied the landlord is aware of the requirements of the Act with respect to obtaining a tenant's consent for entry or by giving a written 24 notice of entry. However, I instructed the landlord to ensure in the future that he communicates with any contractors or other persons that require entry to the unit that

the unit is tenanted and that consent needs to be obtained from the tenant or proper notice given before entry is made.

While the magnitude of the water seepage in this case was unlikely an emergency, as defined in the Act, it is the landlord's obligation to take sufficient action to respond to complaints for repairs, even if the owner of the property is unavailable. In this case, I believe this application may have been avoided had the landlord had more communication with the tenant.

I make no award with respect to the filing fee as one was not paid by the tenant.

Conclusion

The landlord is ordered to have the carpets cleaned within one week from the date of today's hearing. The landlord must also ensure that the landlord, owner or any other person who requires entry to the unit obtain consent of the tenant or have a proper notice of entry served.

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: July 16, 2010.

Dispute Resolution Officer