



Dispute Resolution Services

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Residential Tenancy Branch
Ministry of Housing and Social Development

DECISION

Dispute Codes RP, RR, O, FF

Introduction

This hearing dealt with an application by the tenants to have the landlord make repairs to the unit, allow the tenants to reduce rent for repairs, other and recovery of the filing fee. Both parties participated in the conference call hearing.

Issues to be Decided

Are the tenants entitled to any of the above under the Act.

Summary of Background and Evidence

This tenancy started in November 1, 2007 with rent of \$1100.00, the tenant paid a security deposit of \$550.00 and pet damage deposit of \$550.00.

The tenants testified that when they moved into the rental property there was a list of items that the landlords agreed to repair and that to date many of these repairs have not been completed. Issues brought up to the landlord include installing electrical outlets in the basement in exchange for replacing 2 closet doors, the safety of the furnace and the Co2 levels it emits, the condition of the carpet in the dining room, kitchen and hallway and the exterior eaves/gutters of the house. The tenants stated that they have been advised that because the carpet has separated from its backing that it is a health hazard. The issue of the safety of the retaining wall in the back yard has also been referred to the landlord and the tenant feels the hill behind the house is at risk of failure.

The landlord has submitted evidence in the form of receipts showing:

- The furnace was thoroughly inspected and maintenance completed on September 24, 2010.
- The gutters were cleaned, repaired and downspouts fixed/replaced on September 15, 2010.
- A screen was replaced December 18, 2009
- The deck was demolished and the stairs/handrails re-built on June 23, 2010.

The landlord's agent testified that he would consider providing the tenants with closet doors or installation of electrical outlets in the basement. The landlord's agent stated

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that while the furnace is old, the recent maintenance record does not reflect any type of hazard associated with the use of the furnace. The furnace sits outside the residence, is professionally maintained every year and the landlord's agent feels it poses no risk to the tenants. The retaining wall in the back yard was built by a previous tenant to create a garden space in the back yard and was never intended to be in place for retention of the back the hill. In this hearing the landlord's agent stated he was agreeable to having the retaining wall that is in disrepair removed.

The landlord's agent stated that the carpet had been in the residence for as long as they had managed the property which is 10 years. The landlord's agent was very firm on not replacing the carpet due to the fact that the tenants currently have a dog and previously had a cat.

Analysis

Section 32 of the Act clearly outlines the responsibilities of the landlord and tenants during a tenancy and notes 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.

Table 1: 'Useful Life of Work Done or Thing Purchased' is a guide for determining the useful life of work done or thing purchased for the purpose of this provision.

FINISHES		
1.	Carpets	10 years

Residential Tenancy Policy Guideline 37-Rent Increases notes the life expectancy of a carpet to be 10 years. As the carpet in question is at minimum 10 years old and the lamination on the back of the carpet disintegrating, the carpet would appear to have extinguished its useful life. And while it is understandable that the landlord may have concerns about replacing the carpets because the tenants have a pet, one cannot be certain that the pet will be a detriment to the new carpeting.

Based on the documentary evidence and testimony I find that the tenants have established a claim to reduce rent for repairs in regards to the carpet and the tenants may withhold \$5.00 rent per day rent until such time as the landlord replaces the carpet.

I find that the tenants have met the burden of proof that the landlord would provide closet doors or 2 electrical outlets in the basement at the outset of the tenancy.



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The tenant is also entitled to recovery of the \$50.00 filing fee.

Conclusion

I order the landlord to provide the tenants with closet doors or install 2 electrical outlets in the basement on or before January 1, 2011.

I order the landlord to remove the retaining wall in the back yard on or before April 1, 2011.

The tenants may deduct \$50.00 from future rent owed to the landlord for recover of the filing fee paid to bring their application.

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: November 25, 2010

Dispute Resolution Officer