



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP

Introduction

This hearing dealt with an application by the tenant to order the landlord to make emergency repairs and to make repairs. Both parties participated in the conference call hearing and gave affirmed testimony.

Issue(s) to be Decided

Is the tenant entitled to any of the above under the Act.

Background and Evidence

Matters related to this tenancy were heard March 15, 2011 under file 766929. This was an application by the tenant to set aside a notice to end tenancy for cause. In this hearing use of the porch for storage by the tenant, the placement of the tenant's satellite dish and the condition of the porch handrail were discussed and ruled upon.

The tenant notes in her evidence that she has recordings of all arbitrations and it was clarified for the parties that per Residential Tenancy Branch Rules of Procedure Rule 9

RECORDING OF A DISPUTE RESOLUTION PROCEEDING:

9.1 *Private recording*

Private audio, photographic, video or digital recording of the dispute resolution proceeding is not permitted.

The tenant stated that no repairs or maintenance has been completed by the landlord on her rental unit during her 4 year tenancy and as the rental unit is over 30 years old it has fallen into a state of disrepair. The tenant stated that in the past when she has brought issues up with the landlord that she was told as this was subsidized housing the landlord was not responsible for repairs, tenants were. The landlord responded to clarify that tenants are responsible for damage caused by the tenant but that the landlord is responsible for and does complete regular maintenance on the property.

The tenant testified that there are numerous issues with the condition of the rental unit that date back to the start of her tenancy in 2007 and that the landlord refuses to address these issues. These issues include:

A mouse and insect infestation in the rental unit:

The tenant states that every spring she is bitten by bugs and that there are continually small larvae found in the cupboards and drawers. The tenant is adamant that the bugs do not come from her pets and that her pets are flea free.

The landlord stated that they are under contract with a pest control company who inspects the property monthly for bugs and mice. The landlord stated that there have been no recent bug problems reported and they are currently having a mice problem eradicated. The landlord did comment that the tenant has numerous pets and that he was not sure if they were not the source of the bug problem. The landlord stated that as the tenant denied his inspector access to the inside of the rental unit the landlord has no idea if this problem exists in the rental unit.

The door handle and deadbolt are missing on the exterior door:

The tenant states that because the building is old it has settled causing the door handle and deadbolt to be miss-aligned. The tenant stated that the door handle became harder and harder to open and finally broke off in her hand one day and that the deadbolt also became very difficult to open with the key ultimately breaking off in the lock.

The landlord stated that the door hardware had been replaced in 2007 and he believed that they were removed or damaged by the tenant. The landlord wants to ensure that the property is secure and stated that he had no issue calling in a locksmith to repair the door handle and deadbolt.

The electrical wiring/fixture is unsafe:

The tenant stated that the porch light is hanging off the wall and not properly attached. The landlord is aware of this concern as it was noted during a June 6, 2011 inspection.

There are problems with the plumbing:

The tenant stated that her toilet leaks but that she is not sure where it is leaking from. The tenant states that this constant leak had rotted the floor and caused mould in the rental property. The tenant also stated that the caulking around the tub needs to be replaced as it is cracked, leaking, black and mouldy.

The landlord stated that as the tenant denied his inspector access to the inside of the rental unit the landlord has no idea if this problem exists in the rental unit.

Issues with the doors, window screens and hand railing:

The tenant stated that the hand railing has been broken since she moved in to the rental unit, the screen door is broken and some of the window screens are torn and the tenant is adamant that these items have been this way since the start of the tenancy.

The landlord stated that the railing had been attached with 2 lag bolts, that these bolts have been removed, possibly by the tenant and that during a 2010 inspection the screen door, door handle and deadbolt were all in good condition. The landlord is aware of the current condition of the hand railing and screen door but as the tenant denied his inspector access to the inside of the rental unit the landlord has no idea if there are issues with the window screens. The March 15, 2011 decision notes that the landlord committed to repairing the handrail.

The carpet and sub-floor are rotten:

The tenant stated that the carpet in the rental unit is so old and rotten that it breaks apart when cleaned and cleaning makes no difference to the carpets condition. The tenant believes that the rotten carpet contributes to the bug problem in the rental unit. The tenant also notes that in some areas the sub-floor is completely rotten.

The landlord stated that as the tenant denied his inspector access to the inside of the rental unit the landlord has no idea if this problem exists in the rental unit.

There is moisture/mould throughout the unit:

The tenant stated that because the rental is old, the floor rotten and the toilet leaking that there is mould in the unit. The tenant stated that the bedroom is so bad she cannot sleep in it as she gets severe headaches when she does. The tenant stated that hers is not the only unit with a mould problem.

The landlord stated that as the tenant denied his inspector access to the inside of the rental unit the landlord has no idea if this problem exists in the rental unit.

The tenant in this application is seeking an order for the landlord to complete the required repairs and complete any required emergency repairs.

The landlord testified that an inspection of the tenant's property was completed on June 6, 2011 and it was determined that:

- The railing was loose
- The screen door was hanging by one hinge
- The outside light fixture was in disarray
- The entrance door was missing the deadbolt and door knob.

The landlord notes in their inspection report that the tenant denied the landlord's inspector entry into the rental unit to complete their inspection as the tenant '*had laundry all over the place*'. The tenant stated that a proper, 24 hour notice in writing, was not provided by the landlord for the inspection and that was why she denied the inspector access.

The landlord and tenant both expressed having issues with each other and the tenant stated that she would not allow the landlord access to her rental unit as she is afraid of

him. The tenant referred to the March 15, 2011 hearing that notes 'I find the landlord has committed to look into repair of the handrail and any other matter raised by the tenant' and the tenant stated that she believed this to be an order for the landlord to comply with the Act. The tenant inquired about monetary compensation for all of the issues she has had to live with and was advised that she was at liberty to file an application to seek compensation from the landlord.

The landlord did state in this hearing that they would be moving forward with an eviction notice and file to obtain an order of possession. The landlord requested that any orders for the landlord to complete repairs be held out for 6 weeks to allow the landlord time to obtain possession of the rental until as this would then allow the landlord to complete any required repairs once the unit was empty. The landlord was advised in this hearing that a 6 week time extension would not be acceptable as some of the issues the tenant has raised are health and safety related.

The landlord also noted that when they took over management of this property in 2007 they had all of the current tenants submit a list of repairs and the landlord completed 264 repairs for tenants.

After some discussion the parties agreed in this hearing that:

The landlord will provide the tenant with proper 24 hour written notice to complete an interior inspection of the rental unit with a witness present.

The tenant will allow the landlord to complete the interior inspection and the tenant will have her son present to act as her agent so that the tenant does not have to be in attendance with the landlord.

Analysis

Based on the documentary evidence and undisputed testimony of the tenant, I find on a balance of probabilities that the tenant has met the burden of proving that they have grounds for entitlement to an order for the landlord to complete emergency repairs and repairs.

Residential Tenancy Act **Section 32 Landlord and tenant obligations to repair and maintain** speaks to:

(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.

I Order that the landlord provide the tenant with 24 hour written notice and complete the interior inspection of the rental unit by August 20, 2011.

Once the landlord has completed the interior inspection of the rental unit the landlord is Ordered to complete repairs as outlined below:

1. Mouse and insect infestation – August 26, 2011
2. Plumbing: leaking toilet/tub caulking – August 26, 2011
3. Window screens - August 26, 2011
4. Carpet and subfloor – September 30, 2011
5. Mould – October 15, 2011

As the landlord is aware of the condition of the porch hand railing, door handle, deadbolt, screen door and porch light the landlord is Ordered to complete repairs on these items by August 20, 2011.

If, during the landlord's inspection other items in the rental unit are found to be out of compliance with section 32 of the *Act* the landlord is Ordered to complete repairs on these items no later than October 30, 2011. The landlord is to provide the tenant with a copy of this inspection report within 7 days of the date of the inspection.

In the event that the above repairs/maintenance are not completed by midnight, Sunday, October 30, 2011, the tenant has leave to apply for a rent reduction.

Conclusion

I Order that the landlord complete an interior inspection of the rental unit and complete all subsequent repairs as outlined 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: August 9, 2011.

Residential Tenancy Branch