



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes ERP, RP, PSF, RR, FF

Introduction

This matter dealt with an application by the tenant to obtain an Order for the landlord to make repairs to the unit site or property, an Order to allow him to reduce his rent for repairs, services or facilities agreed upon but not provided and to recover the filing fee for this application. The tenant withdrew the remainder of his application at the hearing.

Service of the hearing documents was done in accordance with section 89 of the *Act*, and was hand delivered to the landlords' agent. The landlords' agent confirms receipt of these documents.

Both parties appeared, gave sworn testimony, were provided the opportunity to present their evidence orally, in written form, documentary form, to cross-examine the other party, and make submissions to me. On the basis of the solemnly sworn evidence presented at the hearing I have determined:

Issue(s) to be Decided

- Is the tenant entitled to an Order for the landlord to make repairs to the unit, site or property?
- Is the tenant entitled to reduce his rent for repairs, services or facilities agreed upon but not provided?

Background and Evidence

Both parties agree that this month to month tenancy started on May 15, 2011. Rent for this unit is \$650.00 per month and is due on the 1st day of each month in advance.

The tenant testifies the carpets in his unit are so old that the backing is disintegrating and rotten, the carpets smell musty and of fungal matter and have mould on the backing. The tenant testifies the carpets could not have been cleaned before his tenancy as his white socks are black after walking on the carpets. The tenant testifies the previous landlord told him the carpets were 22 years old and at that time he agreed to replace or repair the carpets as they are coming off their carpet gripper in places and are frayed in places. The tenant states there is also staining on the carpets. The tenant states he has asked the current landlords to take care of the carpets and they did come and take photographs of the carpets. The tenant states the landlord wrote back and said they found no rot, mould or stink in the carpets.

The tenant testifies he was shown a different unit when he came to view to rent and when he came to move into the units he was given this one. He states he did take part in a move in condition inspection and agreed that the unit was as described in the inspection report marking the carpets as normal wear and tear, and indicating a stain and linoleum coming away. The tenant states he was not worried about this at the time as the landlords' agent in place at that time told him the carpets would be replaced and everything would be repaired.

The tenant states the new landlord said they had sent him a letter saying they would come to make repairs on October 03, 2011 but he states he did not receive this letter and was only aware of it when the landlord provided it in evidence. The tenant refers to the landlords photographic evidence that he states shows the underlay is disintegrating and which show mould on the carpet backing and one large stain in the middle of the living room carpet. The tenant states the landlord has also provided a carpet cleaner report which states the carpets were cleaned in October, 2010. He states as he did not move into the unit until May 2011 there is nothing to show the carpets were cleaned prior to his tenancy as they remain filthy.

The tenant testifies there is a problem with the back door. The door is hard to open and close and the lock is breaking off. The tenant also states he has not been provided with a working oven. He states the lights on the oven do not work and if he turns it on and walks away he often forgets to switch it off because there are no lights to indicate it is still on. The tenant testifies he has written to the previous landlord about this but he failed to do anything to repair the oven lights. The tenant agrees that since these landlords took over in July, 2011 he has not yet notified them of this problem or the problem with the back door but the previous landlord should have informed them.

The tenant seeks an Order for the landlord to make repairs to the carpets, the back door and the oven. The tenant also seeks a rent reduction of \$100.00 per month for each month of his tenancy because the landlord has not carried out the repairs as promised.

The landlords' agent testifies they did inspect the carpets and sent the tenant a letter agreeing to come into his unit on October 03, 2011 and replace the frayed section of carpet with linoleum by the doors, the landlords' agent state they also agreed to remove the exposed tacking bars and replace five transition bars. The landlords do not agree that the carpets are dirty or mouldy and states the carpets are only 16 years old. The landlords testify that the carpets were cleansed in October, 2010 as stated in the carpet cleaners report and the unit remained empty until this tenant moved in. The landlord states he had told the tenant he would do the work when he returned from his holiday however while the landlords agents were away they state the tenant served them with the dispute resolution papers.

The landlords' agent states when a tenant is shown a unit there is no unit assigned to the tenant at that time. They states there is no deceit on the landlords part when the tenant was shown a different unit. The landlords' agent states the tenant did sign the move in condition inspection report to agree that he was aware the carpets were worn.

Analysis

I have carefully considered all the evidence before me, including the sworn testimony of both parties. With regard to the tenants claim that the landlord has failed to make repairs to the carpet or failed to provide a carpet that is in a condition fit or the rental unit. I have considered both arguments in this matter and find that the carpets are in a condition that would not warrant time spent on them to clean and repair them. The photographs sent in by both parties clearly show the carpets are in a worn condition with frayed edges, dirty stains and disintegrating underlay.

S. 32 of the Act states 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.

While the landlord has offered to repair the carpet it is my decision that the carpets are well past there useful life as indicated under the Residential Tenancy Policy Guidelines. These guidelines indicate that the useful life of a carpet is 10 years. A carpet will last longer than this time frame if it is well cared. I have reviewed the photographic evidence sent in by both parties which clearly show the tenants carpet has not been well cared for during its life. Consequently, I order the landlord to replace the carpet within one month of receiving this decision.

With regard to the tenants claim for repairs to the oven and back door; as the tenant has only notified the landlord of these repairs at the hearing today I am not prepared to make an Order concerning these issues. However as the landlord has now been notified that these repairs are required he must ensure the tenants concerns are investigated and dealt with promptly.

The tenant seeks a rent reduction of \$100.00 per month from May to October, 2011 because the landlord has failed to maintain the rental unit by making appropriate repairs. I find as the tenant did not notify the landlords of the required repairs to his door and oven that I must limit his claim in this matter. The landlords' agent argues that they wrote to the tenant stating the carpet repairs would be carried out on October 03, 2011 however I have no evidence to show that the tenant received this letter because he has contradicted the landlords' agents' evidence in this matter. Consequently, it is my decision that the tenant is

entitled to a rent reduction of \$50.00 per month from May to October, 2011 with the month of May being pro rated as the tenant did not move in until May 15, 2011. The tenant may therefore deduct the sum of \$325.00 from his next rent when it is due and payable and may reduce his rent by \$50.00 a month from December 01, 2011 if the carpets have not been replaced by this time and continue paying this reduced rent until the carpets are replaced.

The tenant has applied to recover his filing fee however I have no evidence before me that a filing fee was paid for this application.

Conclusion

The tenants' amended application is allowed. The tenant may reduce his rent for November by \$325.99 making his rent payment \$325.00.

The tenant may further reduce his rent by \$50.00 per month from December, 2011 if the landlords have not replaced the carpets as ordered.

I Order the landlord to replace the carpet within one month of receiving this decision.

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: October 18, 2011.

Residential Tenancy Branch