



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC ERP FF

Introduction

This hearing dealt with an application by the tenant for emergency repairs, as well as for monetary compensation. The tenant, the landlord and an agent for the landlord participated in the teleconference hearing.

The tenant did not serve the landlord with several pages of her documentary evidence. I therefore did not admit or consider that evidence.

The landlord served the tenant with late evidence. The tenant stated that if she had received the landlord's evidence in time, she would have produced further evidence to respond to the landlord's evidence. The tenant stated that she did not want an adjournment, and she was prepared to give testimony in response to the landlord's evidence. I therefore admitted the landlord's evidence.

I determined that the issue of emergency repairs took precedence, and only heard evidence on that portion of the application. The portions of the tenant's application for monetary compensation and a reduction in rent are dismissed with leave to reapply.

Issue(s) to be Decided

Should I order the landlord to do emergency repairs?

Background and Evidence

The tenancy began on October 1, 2006. The rental unit is a detached single-family dwelling.

Tenant's evidence – emergency repairs

The item requiring emergency repairs is cleaning and sterilization of the heating ducts. The tenant stated that there was a mouse problem in the rental unit, but the tenant did not tell the landlord about it, she dealt with it herself. However, the mice left urine and droppings in the heating ducts. The tenant has a heart valve as well as COPD, a lung disease that makes it difficult to breathe. Therefore, the tenant cannot turn on the heat because the mouse urine and droppings in the heating ducts will have a severe impact on her health.

On October 12, 2011, the tenant gave the landlord a written request to clean and sterilize the heating ducts because of the mouse urine and droppings. The landlord refused to do so and said that he had the ducts cleaned two years ago.

Landlord's response – emergency repairs

The landlord provided evidence that the heating ducts had been cleaned on September 23, 2009. The landlord was informed that duct cleaning should only have to be done every four or five years.

The landlord believed that the problem was not caused by mice, because mice could not get into the heating ducts. The landlord believed any problem with the heating ducts was caused by the tenant. It is the tenant's responsibility to clean around the ducts, and to maintain cleanliness on the rental property. The tenant has had pets in the house, even though she does not have permission to have pets. Furthermore, as depicted in the landlord's photographs, there is extensive dirt and clutter around the outside of the house.

The landlord acknowledged that he received the tenant's written request to clean the ducts. The landlord did not inspect the ducts because he believed that the tenant caused any problem that exists regarding the ducts, and it is therefore the tenant's responsibility to have the ducts cleaned.

Analysis

Under section 32 of the Act, a landlord must provide and maintain the rental unit in a state of repair that complies with the health, safety and housing standards required by law and make the unit suitable for occupation. Section 33 of the Act defines "emergency repairs" as repairs that are urgent and necessary for the health or safety of anyone, and

includes repairs to the primary heating system. Under Residential Tenancy Policy Guideline 1, the landlord is responsible for cleaning heating ducts as necessary.

I accept the evidence of the tenant that she has health conditions that would potentially put her health at risk if she is exposed to toxins from mouse urine and droppings. If there are mouse urine and droppings in the heating ducts, the tenant cannot reasonably be expected to turn on the heat. I find that if mouse urine and droppings are present in the heating ducts, then emergency repairs are required.

I order the landlord to immediately have the heating ducts professionally inspected to determine whether mouse droppings or urine is present in the ducts. If mouse droppings or urine is detected in the heating ducts, I further order the landlord to immediately have the ducts cleaned and sterilized to meet health and safety standards. If the landlord does not complete the inspection and any necessary work forthwith, it is open to the tenant to apply for monetary compensation.

Conclusion

I order the landlord to inspect the heating ducts and, if necessary, to clean and sterilize the ducts, 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: November 9, 2011.

Residential Tenancy Branch