



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes:

RP, RR

Introduction

This hearing was scheduled in response to the tenant's Application for Dispute Resolution, in which the tenants have made application for Orders the landlord complete emergency repairs and repairs to the rental unit.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained, evidence was reviewed and the parties were provided with an opportunity to ask questions about the hearing process. They were provided with the opportunity to submit documentary evidence prior to this hearing, all of which has been reviewed, to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the evidence and testimony provided.

Preliminary Matters

The tenants submitted evidence in relation to their February 16, 2012, application, on March 7, 2012. This evidence was not given at least 5 days prior to the hearing and was set aside.

The landlord was served with Notice of the hearing on February 21, 2012; the landlord submitted late evidence on March 2, 2010; this evidence had also been supplied by the landlord on February 28, 2012, and was considered during the hearing.

At the start of the hearing I ensured that the tenants set out the specific areas of concern upon which the application was based; agreement on the items was reached and the hearing proceeded.

Issue(s) to be Decided

Must the landord be Ordered to complete emergency repair and repair to the rental unit?

Background and Evidence

The tenancy commenced on October 1, 2011; rent is \$1,350.00 per month, due on the first day of each month. A deposit in the sum of \$675.00 was paid. A copy of the tenancy agreement and addendum was supplied as evidence.

A move-in condition inspection report was completed and signed by the female tenant and agent on September 30, 2011. On October 3, 2011, the tenants completed a list of deficiencies and gave this to the landlord October 20, 2011.

The tenants want the landlord to repair the following:

- Eaves trough which causes dripping on the sidewalk, resulting in ice-build-up;
- Broken electrical outlet covers to be replaced; and
- The entry stairs to be replaced.

The October 3, 2011, list included other items, but the hearing was held in relation to the specific items listed above.

The tenant stated that the water dripping from the eaves is causing a hazard, as ice builds up on the walk. The tenant stated they have used salt and sand, but that a risk continues to be present.

The agent stated that the tenancy agreement addendum requires the tenant to remove ice and snow from the walks. The agent agreed that water may drip as the result of repeated thawing and freezing over the winter. The landlord has not seen evidence on any use of salt or sand on the walk.

The tenant stated that the steps entering the unit are rotten and require repair. The tenants find the steps a safety hazard. The landlord had promised to replace the steps and have not yet done so. The male tenant was not present for the move-in condition inspection and once he looked at the steps, they submitted the October 3, 2011, written list of repairs they wished to have completed.

The agent agreed that the steps leading into the unit are lower than they should be and that as soon as the weather permits the landlord will have the steps replaced.

The landlord agreed to have someone enter the unit as soon as possible to ensure that any broken outlet covers were replaced.

Analysis

Section 32 of the Act provides, in part:

32 (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.

The tenants have the burden of proving that the landlord has not made repairs or maintained the home in a state that complies with standards and law.

The landlord has agreed to enter the home in order to replace any power outlet covers that are broken and I Order the landlord to do so no later than 2 weeks after receipt of this decision.

The landlord may issue and serve a written Notice of entry to the unit, as provided by section 29 of the Act; the tenants do not need to be at home at the time of entry.

I find, on the balance of probabilities, that the stairs do not pose a health and safety standard risk to the degree that would require immediate replacement. However, the landlord has acknowledged they are an awkward height and will be replaced when weather permits. Therefore, I Order the landlord to replace the entry steps no later than April 30, 2012.

In relation to the ice formation on the step, I find with vigilant application of sand and salt the tenants should be able to maintain the sidewalk, as required by the tenancy addendum, in a state that keeps it free from ice and hazard. This may require daily attention to the sidewalk, but I can find no fault of the landlord in relation to the ice formation. The request for eaves repair is dismissed.

Conclusion

The landlord will replace any broken power outlet covers.

The entry steps are to be replaced no later than April 30, 2012.

The tenants have not proven the landlord has been negligent in relation to the ice formation. I have found the tenants are responsible for ensuring the walk-way is clear of ice through the use of sand and salt.

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: March 12, 2012.

Residential Tenancy Branch