



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes MNDC, RP, RR, FF

Introduction

This hearing dealt with the tenant's application for a Monetary Order for damage or loss under the Act, regulations or tenancy agreement; repair orders, and authorization to reduce future rent payable. The landlord and an advocate for the tenant appeared at the hearing.

The advocate requested the hearing be adjourned because the tenant was in the hospital. After I informed the parties that my next available hearing date was several weeks away both parties agreed to proceed with the matter with the understanding some issues that required the tenant's participation would be dismissed with leave.

Both parties were provided the opportunity to make relevant submissions, in writing and orally pursuant to the Rules of Procedure, and to respond to the submissions of the other party.

Issue(s) to be Decided

1. Has it been established that it is necessary to issue repair orders to the landlord?
2. Is the tenant entitled to monetary compensation for damage or loss under the Act, regulation or tenancy agreement?
3. Should the tenant's future rent payable be reduced?

Background and Evidence

The tenant is seeking orders that the landlord replace the carpeting and repair mould on the ceiling. The tenant is seeking a 50% rent reduction, or \$210.00 per month, until such time the repairs are made.

The landlord was in agreement that the carpeting is in need of replacement. The landlord has obtained an estimate for carpet replacement in the unit and has put in a purchase order with the carpet supplier. The landlord's position was that the tenant

needs to arrange to have his possessions moved from the rooms requiring carpet installation.

The advocate submitted that the tenant has been in communication with the carpet installers about moving his possessions.

From the carpet estimate provided by the landlord it appears the carpet company will move possessions but will charge for such a service.

It was undisputed that mould has formed on the ceiling in a corner of the living room above two corner windows. The advocate submitted this is the responsibility of the landlord to remove the mould and make repairs.

The landlord was of the position the mould is the result of high humidity in the rental unit caused by the tenant's actions. The landlord stated the tenant has several plants in the unit and the tenant does not adequately ventilate the unit. The landlord described the unit as being hot and humid. The landlord submitted that the building is constructed of steel and concrete and that the building envelope was completely remediated approximately three years ago. Further, the water supply lines run in the interior of the building (ie: not along the perimeter of the building above the windows). Finally, from the exterior of the building the only unit with moisture on the windows is that of the rental unit and the windows of the other 100 or so units in the building do not show signs of excessive moisture, supporting the landlord's determination the mould is a result of excess moisture caused by the tenant's failure to ventilate or heat the unit adequately.

The advocate called the tenant's son as a witness. The witness was informed that he was being called as a witness to the formation of mould on the tenant's ceiling. The witness testified that he first observed mould on the tenant's ceiling approximately 5 or 6 years ago. The tenant has 3 to 6 small plants in the unit. The tenant has scrubbed the mould with bleach but it quickly returns. The rental unit is of normal temperature. The concrete is visibly crumbling and a breeze can be felt near the windows.

The landlord pointed out to the witness that in the tenant's letter of September 27, 2011 the tenant had stated that he could not reach the ceiling to clean it and that he does not have the funds to pay a contractor to do it. In response, the witness changed his testimony to state that he had cleaned the ceiling for his father and the tenant cleaned the lower portion of the walls with bleach.

The landlord also pointed out that the tenant had complained of acute breathing problems but that the landlord's caretaker had witness the tenant smoking a marijuana cigarette. The witness became argumentative and I asked that he leave the hearing, which he did.

Evidence provided for this proceeding included the tenancy agreement; photographs of the carping and ceiling above the living room windows; written communication with respect to carpet replacement and mould; a carpet replacement estimate; an inter-office requisition form prepared by the landlord's caretaker and incident report; and, written submissions.

Analysis

Based upon the undisputed evidence before me, I accept that the carpets are in need of replacement and I accept that the landlord has since made arrangements to have the carpets replaced. The current outstanding issue appears to be the relocation of the tenant's possessions in order to facilitate the carpet replacement. I find the landlord does not have an obligation under the Act to manage the tenant's possessions. Therefore, the tenant is responsible to ensuring his possessions are moved so as to facilitate the carpet replacement and any costs associated with the moving his possessions are that of the tenant.

In light of the above, I find the next step is for the tenant to arrange to have his possessions moved as necessary. I encourage the parties to work with each other in order for the tenant to determine how to best facilitate the placement of his possessions during the carpet removal and installation process.

Usually a landlord will select a date and time for carpet replacement and notify the tenant of such; however, given the tenant's current ill health I find it reasonable to expect that once the tenant has made arrangements to have his possessions moved the tenant shall notify the landlord, in writing, of a range of suitable dates and then the landlord shall proceed to set a date with the carpet installer. As the next step involved in the carpet replacement process lies with the tenant I do not make any repair order to the landlord. However, it is expected that upon notification from the tenant the landlord will proceed with the carpet replacement and make every reasonable effort to accommodate the dates requested by the tenant.

With respect to the mould issue, I am satisfied the landlord has investigated the tenant's complaint. Given the absence of the tenant during the hearing, the inconsistent and changing testimony of the tenant's son during the hearing, and upon hearing a

reasonable explanation for the mould formation from the landlord, I find I am not satisfied that the mould formation is a result of a landlord's failure to repair and maintain the property or unit. As the tenant bears the burden of proof I find he has not met his burden during this proceeding and I dismiss this portion of the tenant's application. However, in keeping with the understanding reached at the beginning of the proceeding, this portion of the tenant's application is dismissed with leave to reapply.

I make no award for monetary compensation or a rent reduction as the timing of the carpet installation rests with the tenant now and the tenant has not established the landlord is responsible for the mould formation above the living room windows. However, I do order the landlord to compensate the tenant for one-half of the filing fee for this application as I found that the evidence shows the carpeting has required replacement for quite some time and the landlord did not obtain a written estimate or place a purchase order until after the tenant filed an Application for Dispute Resolution seeking replacement of the carpeting. The tenant is authorized to deduct \$25.00 from a subsequent month's rent in satisfaction on this order.

Conclusion

The tenant is required to arrange for moving of his possessions in order to proceed with the carpet replacement and when this is accomplished the tenant shall notify the landlord of suitable dates for carpet replacement in writing. The landlord is expected to proceed with the carpet replacement and make every reasonable effort to accommodate the dates requested by the tenant.

The tenant's request for repair orders for mould remediation has been dismissed with leave.

No monetary award or rent reduction has been granted or awarded with this decision with the exception of a \$25.00 award for recovery of one-half of the filing fee. The tenant has been authorized to deduct \$25.00 from a subsequent month's rent in satisfaction of this award.

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 21, 2012.

Residential Tenancy Branch