



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes OLC RP FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the Tenant to obtain Orders to have the Landlord comply with the Act, regulation or tenancy agreement, to have the Landlord make repairs to the unit, site or property, and to recover the cost of the filing fee from the Landlord for this application.

The parties appeared at the teleconference hearing, acknowledged receipt of evidence submitted by the Tenant and gave affirmed testimony. At the outset of the hearing I explained how the hearing would proceed and the expectations for conduct during the hearing, in accordance with the Rules of Procedure. Each party was provided an opportunity to ask questions about the process however each declined and acknowledged that they understood how the conference would proceed.

During the hearing each party was given the opportunity to provide their evidence orally and respond to each other's testimony. A summary of the testimony is provided below and includes only that which is relevant to the matters before me.

Issue(s) to be Decided

Should the Landlord be Ordered to comply with the Act and Ordered to make repairs to the rental unit?

Background and Evidence

The parties agreed they entered into a written month to month tenancy that began on December 16, 2010. Rent is payable on the first of each month in the amount of \$1,200.00 and the Tenant paid \$600.00 as the security deposit.

The Tenant stated that there was not any mold in the bathroom until approximately one year after they occupied the unit. She continued to wash the mold off the walls until recently when her brother in-law told her that mold was dangerous for children. It was at that time that she requested the Landlord repair the bathroom and remove the mold.

She said her brother in-law told her that the Landlord did not repair the mold properly because all they did was paint over it.

The Landlords argued that they have dealt with the issue properly. They advised that they first heard of the problem in October 2012 and when their maintenance person checked it he determined that it only needed to be treated with Kilz primer which is designed to kill mold. The Landlords submitted that the Tenant and her family have become confrontational and were yelling at the repair people. They advised the repairs took longer than normal because of the occupant's behaviour. They confirmed the unit has been treated twice with the Kilz primer (October 30, 2012 and again on November 9, 2012). Once those two coats were completely dry they applied a final coat of paint which was completed November 16, 2012.

In closing, the Landlords stated the problem has been fixed and wanted it known that the occupants were not using the bathroom fan.

The Tenant is of the belief that the drywall needs to be removed and replaced. The photo she provided in evidence was taken prior to any treatment of the bathroom. She believes she can still see some dark spots on the wall; however, she did not provide a picture or any documentary evidence of what the unit looks like since it has been repaired. She confirmed that they did not know how to use the bathroom fan properly but now they know they should use it.

Prior to completing the hearing I issued a verbal warning to the Tenant as follows: All occupants and guests of the unit must be instructed to turn on the bathroom room when using the bathroom and to leave the fan running after they leave the bathroom until the moisture has been eliminated from the room. The Tenant stated that she understood that the fan may have to run for an hour or so after a shower to ensure the moisture is eliminated from the room.

Analysis

When a tenant brings a claim against their landlord to have repairs done to the rental unit the tenant bears the burden to prove repairs are required.

In this case the evidence supports repairs were required and that after the Landlord was informed of the issue they conducted repairs. At the time the Tenant filed her application on November 14, 2012, the Landlord had already begun the repair process by inspecting the unit and painting two coats of Kilz on the bathroom walls. The

Landlord attended the unit a third time on November 16, 2012 and applied the final coat of paint.

Where one party provides a version of events in one way, and the other party provides an equally probable version of events, without further evidence, the party with the burden of proof has not met the onus to prove their claim and the claim fails.

In this case, The Tenant argued that the repair was not completed properly and the Landlord argued it was. The Tenant did not provide proof to support her argument. Accordingly, the only evidence before me was disputed verbal testimony which I find to be insufficient to meet the Tenant's burden of proof. Therefore, I dismiss the Tenant's claim.

The Tenant has not been successful with her claim; therefore I find she must bear the burden of the filing fee.

Conclusion

I HEREBY DISMISS the Tenant's claim.

I HEREBY ORDER that all occupants and guests of the rental unit must be instructed to turn on the bathroom room when using the bathroom and to leave the fan running after they leave the bathroom until the moisture has been eliminated from the room.

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: December 19, 2012.

Residential Tenancy Branch