



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding CAPREIT LP
and [tenant name suppressed to protect privacy]

DECISION

Dispute Codes:

OTC, O

Introduction

This hearing dealt with an Application for Dispute Resolution by the landlord. The landlord sought to restore the tenant's rent to its previous rate of \$900.00 as of June 1, 2013, after the tenant was granted a temporary rent abatement of \$125.00 per month at a previous Dispute Resolution hearing held on April 17, 2013.

The landlord seeks retroactive compensation for the \$125.00 per month retroactive to June 1, 2013 difference that has not been paid by the tenant since June 1, 2013 to date.

Both parties were present at the hearing. At the start of the hearing I introduced myself and the participants. The hearing process was explained. The participants had an opportunity to submit documentary evidence prior to this hearing, and the evidence has been reviewed. The parties were also permitted to present affirmed oral testimony and to make submissions during the hearing. I have considered all of the affirmed testimony and relevant evidence that was properly served.

Background and Evidence

The landlord testified that the tenancy began on November 1, 2011 and the rental rate is \$900.00 plus \$25.00 for parking.

After a hearing held on April 17, 2013, on the tenant's application, a rent abatement of \$75.00 per month was ordered, and was to continue pending the elimination of mice. A further abatement of \$50.00 was also ordered pending completion of repairs to the window, patio doors and the heating system.

The dispute resolution decision, dated April 22, 2013, ordered the landlord to restore the unit through repairs and pest control measures.

The decision ordered that, once the landlord addressed the complaints, if the parties then do not agree that the problems were satisfactorily resolved sufficient to eliminate the rent abatement, then landlord would then be required to make an application for

dispute resolution to obtain an order to restore the normal rent. To accomplish this, the landlord would be expected to prove to the satisfaction of the arbitrator that the specific condition issues were adequately dealt with and resolved in compliance with the Act.

The landlord's position is that all of the deficiencies that the tenant brought forth at the previous hearing, have been adequately dealt with and resolved by the landlord and therefore the rental abatement should cease and the landlord should be granted an order restoring the normal rental rate of \$900.00 per month.

The tenant testified that the problem with mice has not been resolved and she has still found dead rodents in her suite and common areas during July and August 2013. The tenant provided photos of the mice she found. The tenant acknowledged that the landlord did contact pest-control experts and that there have been repeated service calls. However, according to the tenant, the \$75.00 rent abatement should still continue until the rodents have been completely eradicated.

The landlord argued that the reports from the professional exterminator have confirmed that there is no mice activity. The landlord submitted copies of the reports confirming this. The landlord stated that they are prepared to have the exterminators back as required anytime there is a concern. The landlord feels that the \$75.00 rent abatement for mice is no longer warranted and should cease.

The tenant testified that, although a new lock was installed on her window, as ordered, the window lock was not completely repaired to her liking as it remains difficult to lock. The tenant is also not satisfied with the alterations to the patio door lock. With respect to the heat issue, the tenant stated that pipes going to and from the boiler along one wall still give off excessive heat that affects the suite, making it too warm. The tenant feels that the \$50.00 rent abatement should continue because of the unresolved issues.

The landlord testified that they did take appropriate action to resolve each of the above issues to the best of their abilities, but are limited by the age and infrastructure of the building. The landlord testified that the tenant was offered opportunities to move to alternate suites or even into a rental unit in another building, but was not interested in moving. The landlord's position is that the \$50.00 rent abatement is no longer justified.

Analysis

Section 26 of the Act states that rent must be paid when it is due, under the tenancy agreement, whether or not the landlord complies with this Act, the regulations or the tenancy agreement. However, in this instance in a decision issued on April 22, 2013, I find that the tenant obtained an order permitting the tenant to reduce the rental amount by a total of \$125.00 pending the satisfactory resolution of various deficiencies.

I find that section 32 of the Act imposes an obligation on the landlord to provide and maintain residential property in a state of decoration and repair that complies with the health, safety and housing standards required by law, having regard to the age, character and location of the rental unit to make it suitable for occupation by a tenant.

I find that the mere existence of a pest infestation does not constitute proof that a landlord is in violation of section 32 of the Act. However, I find that, under the Act, a landlord is obligated to promptly respond to a tenant's complaints about infestations or re-infestations by vermin by consulting qualified professional pest control contractors and following the recommendations.

I find that the landlord did take immediate steps to deal with the mice problem by engaging professionals to fumigate as often as necessary to ensure that the problem was brought under control. I find that, the landlord provided evidentiary proof to confirm that they did not ignore the complaints and it was verified by the exterminator's report that the problem was under control.

For this reason, I find that the landlord's request that the \$75.00 monthly abatement should cease should be granted.

In regard to the other issues with the window, door and excessive heat from the boiler pipes, I find that the landlord took sufficient measures attempting to satisfy the tenant, within the limits of the infrastructure of the building, even offering to move the tenant to a different suite. I find that, although the actions taken by the landlord did not fully rectify the situation to the tenant's satisfaction, the landlord has sufficiently met their obligation under section 32 of the Act. I find that there is no basis upon which to continue the \$50.00 rent abatement and I find it should cease.

Based on the evidence, I grant the landlord's request for an order to eliminate the rent abatements and restore the rent back to \$900.00 per month as of October 1, 2013.

I hereby order that the monthly rental rate will revert back to \$900.00 per month as of October 1, 2013.

Conclusion

The landlord is successful in the application and is granted an order that the previously ordered rent abatement cease and that the rental rate reverts back to the normal amount under the tenancy agreement.

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: September 19, 2013

Residential Tenancy Branch

