



Dispute Resolution Services

Page: 1

Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding BROADVIEW COURT HOLDINGS LTD
and [tenant name suppressed to protect privacy]

INTERIM DECISION

Dispute Codes MNDC, OLC, RP, RPP

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant for a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement, to have the landlord comply with the Act, regulation or tenancy agreement, to make repairs to the unit site or property, and to provided services or facilities required by law.

Both parties appeared, gave testimony and were provided the opportunity to present their evidence orally and in written and documentary form, and to cross-examine the other party, and make submissions at the hearing.

The parties confirmed receipt of all evidence submissions and there were no disputes in relation to review of the evidence submissions

I have reviewed all evidence and testimony before me that met the requirements of the rules of procedure. I refer only to the relevant facts and issues in this decision.

Issues to be Decided

Is the tenant entitled to a monetary order for money owed or compensation for damage or loss under the Act, regulation or tenancy agreement?

Should the landlord be ordered to comply with the Act?

Should the landlord be ordered to make repairs to the unit?

Background and Evidence

The tenancy began approximately 31 years prior. Rent in the amount of \$874.76 is payable monthly.

The parties were at a dispute resolution hearing on March 11, 2013, and April 17, 2013.

The Arbitrator at that hearing made a final decision on April 18, 2013, which reads in part,

“As a result of the findings in relation to the walls, carpet and cabinets, I find that the Landlord has failed to maintain and provide the unit in a reasonable state. As such **I find that the Landlord must replace the carpet and cabinets and paint the walls of the unit.** As the Tenant did not however include in its application a claim for repairs, should the Landlord fail to make these repairs on its own initiative within a reasonable time from the date of receipt of this Decision. I give the Tenant leave to reapply for repairs to the above items for which the above findings are final and binding.”

[Reproduced as written.]

[Emphasis added.]

On June 17, 2013, a clarification of the above decision was made, which in part reads,

“The Decision does not contain an order for repairs. The Tenant was provided leave to reapply should the Landlord not make repairs within a reasonable time. It cannot be determined in advance what is reasonable. Reasonableness depends on the circumstances and would include such considerations as time, economics and other feasibility considerations.”

[Reproduced as written]

The advocate stated since the decision was made the landlord has replaced the carpets and has painted the rental unit. The advocate stated the landlord has not replaced the kitchen cabinets. The advocate stated that the tenant does not believe the landlord has complied with the above order as they believe the delay has been unreasonable. The advocate stated the landlord has not completed the deck maintenance.

The landlord stated that when they went to maintain the tenant’s deck it was discovered that the fascia board was rotten due to the tenant allowing his water hose to continuously dip water causing damaging. The landlord stated that they made the repair to the fascia board as that was a safety issue. However, due to making that repair they were unable to do further maintenance to the deck flooring, which only requires sanding and to re-coat the deck flooring, however due to the weather conditions that work will not be able to be completed until next summer. The landlord stated that it would be reasonable for them to complete the cosmetic work by August 31, 2014.

The advocate agreed that was a reasonable timeframe, due to nature of the work and the time of the year.

The landlord agreed to provide the tenant with 24 hours notice prior to the maintenance work scheduled to commence. The tenant agreed that they would remove all items from the deck to ensure they do not interfere with work being started and completed.

The landlord stated that they have not replaced the kitchen cabinets as they were seeking clarification from the previous Arbitrator. The landlord stated that they were hopeful that they could simply restore the cabinets as it would be more efficient and a much quicker process for the tenant. The landlord stated if they are required to replace the cabinets they will have to take apart the existing kitchen which will leave the kitchen useable for a short period of time. The advocated stated that the original decision said the landlord must replace the kitchen cabinets.

The landlord stated that a reasonable time frame to replace the kitchen cabinets would be February 28, 2014. The parties agreed that the cabinets are not required to be new, but they are required being in good working order. The parties also understood replacement cabinets will not have a built in cutting board.

The landlord agreed to provide the tenant with at least one weeks' notice of when the work is scheduled to commence. The tenant agreed that all the cabinets will be empty, all the items from the countertops will be removed, and any items from the refrigerator will be removed to ensure that the tenant's belongings do not infer with the landlord right to have the work proceed on schedule.

The landlord further agreed to inspect the tenant's front door retractor and if necessary make any necessary repairs by December 6, 2013. The tenant agreed that they will not play with the door retractor or make any adjustment to the door retractor.

The landlord further agreed to inspect the bathroom cabinet, sink, taps and toilet and if necessary make any necessary repairs by January 31, 2014, to ensure that they comply with the health and safety standards.

The landlord will provided the tenant with 24 hours notice of when the inspection will occur. The tenant is to remove all belongings from the cabinet, countertop and the back of the toilet to allow for the landlord to properly inspect.

Analysis

In this case, there was a previous decision made on April 18, 2013, which made findings that the landlord must replace the kitchen cabinets, replace the carpets and paint the rental unit. The Arbitrator did not make an order that the landlord was required to make the repairs by a specific date. Rather, it was left to the landlord's discretion to complete the repairs within a reasonable amount of time.

Since the decision was made the rental unit has been painted and the carpets have been replaced. The kitchen cabinets have not been replaced but the landlord is making efforts to have the work completed by February 28, 2014.

As there was no order made requiring the landlord to make the repairs by a specific date. I find the landlord has not violated the previous decision. I also find that the

landlord has made reasonable efforts to complete the work within a reasonable time frame. I find that issuing a formal order for repairs is not necessary at this interim decision.

During the hearing the parties agreed to the following,

- 1) The landlord agreed to sand and to re-coat the tenants' decking flooring by August 31, 2014, the landlord will provide the tenant with 24 hours notice;
- 2) The tenant agreed all items will be removed for the deck;
- 3) The landlord agreed to inspect the front door retractor and if necessary make the necessary repair by December 6, 2013;
- 4) The tenant agreed not to play or make any adjustments to the door retractor;
- 5) The landlord agreed to replace the tenant's kitchen cabinets by February 28, 2014, the landlord will provide the tenant with 1 weeks' notice;
- 6) The tenant agreed to remove all items from the kitchen cabinets, countertops, walls and the refrigerator. The tenant is aware the kitchen will not be functional for a period of time;
- 7) The landlord agreed to inspect the bathroom cabinet, sink, tap and toilet and if necessary make any repairs by January 31, 2014, to ensure these items comply with health and safety standards. The landlord will provide the tenant with 24 hours notice; and
- 8) The tenant agreed to remove all items from the bathroom cabinet, countertop and any items from the back of the toilet.

This matter is adjourned and a notice of reconvene hearing is attached to this decision.

The parties were directed that no further evidence is allowed to be submitted, except the landlord is entitled to submit current photographs of the condition of the items listed above. If the landlord chooses to submit current photographs they are required to provide a copy of those photographs to the tenant.

Conclusion

This matter is adjourned and a copy of the reconvene hearing is attached to this decision.

No further evidence is permitted to be submitted, except the landlord may submit current photographs of the above items listed. A copy of any photographs must be provided to the tenant.

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 20, 2013

Residential Tenancy Branch