



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

A matter regarding LANTERN PROPERTIES LTD.
and [tenant name suppressed to protect privacy]

Decision

Dispute Codes:

MNDC, OLC, RR, RP, FF

Introduction

This hearing dealt with an Application for Dispute Resolution by the tenant seeking an order to force the landlord to complete repairs and comply with the Act and monetary compensation for loss of value to the tenancy.

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.

Preliminary Matter: Amending Application

At the outset of the hearing the landlord objected to the fact that the tenant had amended the application to increase the monetary amount of the claim and to add claims for other repairs. The landlord testified that the tenant had originally made the application on October 23, 2013, but served the landlord with the amendment significantly later and the landlord did not receive the new data until November 25, 2013.

According to the landlord, this did not allow them sufficient time to prepare a response to the additional claims and serve the response on the tenant in sufficient time to meet the service deadlines.

It was determined that the tenant's original application, which related to a request to replace the carpets and monetary compensation for the deficiencies of the carpeting in the suite would be heard.

Issue(s) to be Decided

Is the tenant entitled to monetary compensation under section 67 of the Act?

Is the tenant entitled to an order to force the landlord to replace the carpets?

Background and Evidence

The tenancy began 1994 and the current rent is \$768.00. The tenant testified that, the carpeting in the unit has exceeded its expected life and should be replaced. The tenant provided photos showing that the carpeting is buckled in one room. According to the tenant, stretching the carpet is not an option because of its age. The tenant's position is that the carpeting needs to be replaced to comply with the landlord's responsibilities under the Act. The tenant feels entitled to a rent abatement because the landlord has not addressed the problems with the carpeting.

The landlord testified that the tenant's carpets are old, but are serviceable. The landlord argued that they have successfully stretched carpets in other rooms of the suite and are willing to ensure that the carpeting in the bedroom is made safe. However, the landlord is of the opinion that the condition of the carpets does not warrant replacement.

The landlord pointed out that the tenant has a cat which is not allowed under the tenancy agreement. The landlord referenced a clause in the tenancy agreement that indicated tenants need to have written permission from the landlord to keep a pet. The landlord stated that this tenant could not prove that she was ever given written permission by the former owner to add a pet to her household.

The tenant testified that she was granted verbal permission to have her cat over ten years ago and she does not feel that this fact is relevant to her claims for new carpeting to replace the worn 19-year-old carpets in her suite.

In regard to the monetary claim being made by the tenant, the landlord is disputing the tenant's claim for compensation as there is no valid basis to support this claim.

Analysis

I find that, under sections 6 and 58 of the Act, an arbitrator is authorized to make determinations and orders to enforce both the Act AND the tenancy agreement.

I find that section 32 of the Act provides that a landlord must 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 landlord is required, under section 32 of the Residential Tenancy Act, to complete repairs to, or replacement of, any carpeting that actually poses a health or safety hazard.

As the landlord has conceded that some of the carpets do, at the very least, require stretching, the dispute before me pertains to whether the carpet warrants replacement, as put forth by the tenant, or merely requires repairs as put forth by the landlord.

I find that this question can only be answered by a tradesperson qualified in the field. I find that, under the Act, the landlord's actions in response to the tenant's requests must involve bringing a carpeting expert with specific experience in these matters.

Accordingly, I hereby order that the landlord engage a carpet specialist to examine the carpets and make written recommendations in a formal report. I order that a copy of this report be provided to the tenant by December 31, 2013.

I find that the expectation is that the landlord will comply with the recommendations made by the carpeting specialist.

In regard to the tenant's request that they be permitted to engage their own carpeting expert, I order that they are at liberty to do so and that any written report be also shared with the landlord.

I also accept the landlord's commitment to inspect the tenant's rental unit to assess other complaints made by the tenant, including the quality of painting and loose or ill-fitting baseboards.

Given that further information is required with respect to the condition of the carpets in the rental unit, the portion of the tenant's application seeking monetary compensation for devalued tenancy is dismissed with leave to reapply.

Based on the evidence and testimony, I find that the matters under dispute in the tenant's application have been adequately resolved for the time being.

If the parties remain at odds after the carpet remediation has been completely dealt with and after the landlord makes their final determination with respect to what action, if any, is warranted concerning the paint and baseboard complaints, the tenant is at liberty to make another application for dispute resolution with respect to the carpets, paint or baseboards..

In regard to the handling of the tenant's complaints, I hereby order that the parties must restrict all communications about complaints or repair matters to written form and refrain from verbal discussions if possible.

As the tenant's application is only partially successful, I find that the tenant is not entitled to be reimbursed the cost of the application.

Conclusion

The tenant is partly successful in the application as the landlord is ordered to engage qualified contractors to assess the carpets and to share the written report with the tenant. The remainder of the tenant's application is dismissed with leave to reapply.

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 04, 2013

Residential Tenancy Branch

