



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

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

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 compensation loss under the Act, 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.

On November 20, 2013, an interim decision was made and should be read in conjunction with this decision.

Issues to be Decided

Is the tenant entitled to a monetary order for compensation for loss under the Act?
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.

At the outset of the hearing the parties confirmed that the front door retractor has been repaired and the bathroom has been inspected and any necessary repairs were made. As a result, terms 3, 7 and 8 in the interim decision have been completed.

The parties confirmed that the tenant has been given notice that the kitchen cabinets will be replaced and the work will commence February 10, 2014, and will take approximately two weeks to complete. The tenant was instructed to ensure that he has made alternate arrangement for kitchen use during this time.

Storage locker

The advocate confirmed the final matter to be heard is the loss of use of the storage locker. The advocate stated the landlord present to the tenant a note indicating he must surrender possession of his secondary locker. The advocate stated the tenant had full use of the both lockers since the commencement of the tenancy. The advocate stated while the landlord is entitled to take away this facility, they are required to provide a rent reduction. The advocate stated they have not assigned any value to the locker, but want to ensure the landlord is aware of their obligation under the Act.

The tenant testified that when the tenancy commenced he was given two storage lockers and there were seven empty lockers at the time.

The landlord's agent testified that the tenant told him that he acquired the second locker when one of the other renters vacated the premises. The agent argued that it is not reasonable that the original landlord would give the tenant two lockers, when there are less storage lockers than rental units. The landlord stated that on the balance of probability it is more likely that the tenant took the locker.

Analysis

Based on the above, the testimony and evidence, and on a balance of probabilities, I find as follows:

On November 20, 2013, an interim decision was reached and term 3, 7 and 8 have been completed as required. The balcony deck surface is not scheduled to be completed until August 31, 2014, as per the interim decision.

The parties confirmed that the replacement of the kitchen cabinets will commence on February 10, 2014 and may take up to two weeks to complete. During the two week period, I find the tenant is not entitled to compensation for the loss of use, as the scope of the work was solely for the benefit of the tenant, as the landlords request to refinish the cabinets, rather than replace them was rejected by the tenant.

While I recognize the previous arbitrator made the findings that the cabinets are to be replaced, however, the issue of refinishing the cabinet was not considered. I find it was

a reasonable request to refinish the cabinets and by doing so, would have left the kitchen functional and likely ended with the same result. I find temporary inconvenience for the benefit of the tenant is not ground for compensation. This decision can be presented at any future hearing as evidence should the tenant seek compensation for the loss of use.

I further order that the parties participate in a written post renovation condition inspection after the kitchen cabinets have been replaced, as the unit has been largely undated. The condition inspection report can be later updated when the repairs to the balcony are complete.

Storage locker

The evidence of the tenant was that he was given two storage lockers at the start of the tenancy. The evidence of the landlord's agent was that the tenant told him that he took the second locker after another renter vacated.

Both parties have provided a different version, however, based on the balance of probabilities; I find it highly unlikely that one renter would receive the benefit of two lockers when there were not enough lockers for each unit. As the burden of proof was on the tenant, I find the tenant has failed to prove that they were provided with two lockers under their tenancy agreement. Therefore, I find the tenant has failed to prove the landlord has violated the Act. Therefore, I dismiss this portion of the claim.

Conclusion

The tenant's application for a monetary compensation is dismissed. The tenant's application to provided services or facility required by law is dismissed.

The tenant's application for repairs was resolved by agreement in the November 20, 2013, interim decision. As a result, there was no requirement to order the landlord to comply with the Act.

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: February 07, 2014

Residential Tenancy Branch

