



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes DRI, CNR, MNDC, RP, RR, FF

Introduction

This hearing dealt with the tenant's Application for Dispute Resolution seeking to dispute a rent increase; to cancel a notice to end tenancy; an order to have the landlord complete repairs; a reduction in rent; and a monetary order.

The hearing was conducted via teleconference and was attended by the tenant; one of the landlords and an agent for the other landlord.

At the outset of the hearing the parties agreed that the 10 Day Notice to End Tenancy for Unpaid Rent was no longer enforceable as the tenant had paid the outstanding rent within 5 days of receiving the Notice and that they had resolved the issues related to the notice of rent increases.

However, the tenant sought to continue to dispute the rent increase because the landlord had failed to make any repairs and as such should not be allowed to increase the rent. I explained that a landlord is entitled to raise the rent annually without consideration of repairs and that if the Notice of Rent Increase complied with the *Act* including amounts then the Notice cannot be disputed. The Notice submitted into evidence was compliant.

As a result, I have amended the tenant's Application for Dispute Resolution to exclude the matter of the Notice to End Tenancy and the Notice of Rent Increase.

Issue(s) to be Decided

The issues to be decided are whether the tenant is entitled to an order requiring the landlord to make repairs; to a monetary order for compensation for repairs requested and not provided; for a rent reduction and to recover the filing fee from the landlords for

the cost of the Application for Dispute Resolution, pursuant to Sections 32, 65, 67, and 72 of the *Residential Tenancy Act (Act)*.

Background and Evidence

The tenant submitted the first 2 pages of a tenancy agreement for a tenancy beginning on February 1, 2006 for a monthly rent of \$695.00 with subsequent rent increases leading to a current rent of \$755.00 due on the 1st of each month.

The tenant submits that he has been discussing with the landlord Stephen for the past 2½ years repairs that are required to the rental unit, including carpet and linoleum replacements; repairs or replacement of the dishwasher; repainting the rental unit; and repairs or replacement of the bathroom sink. The tenant acknowledges that these were oral discussions and nothing was put in writing.

The tenant submits that the flooring throughout the rental unit is at least 20 years old and that according to Residential Tenancy Policy Guideline #40 the useful life of carpeting is 10 years. He submits that the carpeting is permanently stained near the entry door and that the carpet throughout is raveling; fraying and bearing through. The tenant also states the linoleum in the kitchen has some cuts and the bathroom flooring has some permanent rusts stains.

The tenant seeks to have the rental unit repainted as he has been in the rental unit almost 9 years and it has not been painted during that time. The tenant again referred to the Policy Guideline #40 that states the useful life of a painted finish is 4 years.

The tenant also submits that the dishwasher makes an extraordinary loud sound while in operation and he now must run the dishwasher twice to ensure dishes are cleaned sufficiently.

The tenant states that despite the chips in the bathroom sink being there since the start of the tenancy the metal showing through is now starting to rust. The tenant seeks a replacement sink based in part due to the reference in Policy Guideline #40 that stipulates the useful life as 20 years.

The landlords submit that it was not until they issued the tenant a 10 Day Notice to End Tenancy for Unpaid Rent in October 2014 that they were made aware of any of these complaints from the tenant. The landlord Stephan is out of the country and did not

attend or provide a written statement regarding any complaints that he may have received from the tenant.

The landlords testified that they would be willing to repair or replace anything that requires it but that they have not even looked at these items as they were not aware until recently that the tenant had concerns about them.

Analysis

Section 32(1) of the *Act* requires a 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, and having regard for the age, character and location of the rental unit make it suitable for occupation by a tenant.

While I accept the tenant's position that Policy Guideline #40 does stipulate the useful life of building products, the intended purpose is for considering applications for additional rent increases and determining damage claims by landlords when tenants have caused damage to building products.

As such the mere fact that a building product has reached a certain age does not, in itself, become an automatic requirement for the item to be replaced. As such, the burden is on the tenant to provide sufficient evidence to establish that the product requires replacement or repair.

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 version of events.

In the case before, despite the tenant's testimony that he has raised the issues with the landlords over the past 2 ½ years he has not provided any corroborating evidence that he has raised any of the issues with any of the landlords. As a result and because the landlords are disputing this version of events, I find the tenant has failed to establish that he has sufficiently raised these issues with the landlords or provided them with sufficient time to investigate and/or address the issues.

As such, I find the tenant's Application for Dispute Resolution seeking an order to have repairs completed; compensation for failure to make repairs; and a rent reduction is premature and it would be unfair, at this time, to order the landlord to complete any of the repairs sought and requested by the tenant. I will, however, **order** that the landlords

must investigate the tenant's complaints and determine whether or not a repair or replacement is required.

I note that should the landlord fail to investigate or if the tenant is unhappy with the landlords' decision in regards to any of the requested repairs he remains at liberty to file a new Application for Dispute Resolution seeking an order to make repairs; compensation; and/or a reduction rent.

Conclusion

Based on the above I dismiss this Application for Dispute Resolution.

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: October 29, 2014

Residential Tenancy Branch

